

Case :- CRIMINAL MISC. WRIT PETITION No. - 24546 of 2019

Petitioner :- Sandeep Kumar Tripathi

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Akank Kumar Jain

Counsel for Respondent :- G.A.

Hon'ble Manoj Misra,J.

Hon'ble Virendra Kumar Srivastava,J.

Heard learned counsel for the petitioner; learned A.G.A. for the respondents no. 1, 2 and 3; Sri D.K. Singh, counsel for the respondent no. 4; and perused the record.

The instant petition seeks quashing of the first information report dated 25.7.2019 registered as Case Crime No. 0389 of 2019 at P.S. Line Bazar, District Jaunpur, U/s 419, 420, 467, 468, 471 and 120-B I.P.C.

The contention of the learned counsel for the petitioner is that co-accused of the case filed a separate Criminal Misc. Writ Petition No. 23557 of 2019 which was disposed off by order dated 19.11.2019 granting protection till submission of police report under Section 173 (2) Cr.P.C.

The order dated 19.11.2019 passed in Criminal Misc. Writ Petition No. 23557 of 2019 is extracted below:-

"Heard learned counsel for the petitioners; learned A.G.A. for the respondents 1, 2 and 3; and perused the record.

The instant petition seeks quashing of the first information report dated 25.07.2019 registered as Case Crime No.389 of 2019, under Sections 419, 420, 467, 468, 471, 120-B IPC, P.S. Line Bazar, District Jaunpur.

The allegation in the impugned first information report is that the informant is a widow lady with two daughters. The petitioner took her for executing a sale deed of only one biswa of her total land but by playing fraud upon her, the sale was got executed of her entire 12 biswa.

The contention of the learned counsel for the petitioner is that, admittedly, the informant had gone to execute the sale deed and the sale deed is a registered document therefore the presumption would be that she had signed the document after understanding its contents and hence it only discloses a civil cause of action and the proper remedy for the informant is to institute a civil suit for cancellation of the sale deed.

Be that as it may, whether fraud was played upon her or not becomes a matter of investigation and, therefore, on the ground taken, the prayer of the petitioner to quash the first information report cannot be accepted.

However, considering the facts and circumstances of the case, we deem it appropriate to dispose off this petition by providing that the investigation shall continue and be brought to its logical conclusion, but, subject to petitioner's cooperation in the investigation, he shall not be arrested in the aforesaid case till submission of police report under Section 173(2) Cr.P.C."

This petition is also **disposed off** on same terms.

Order Date :- 2.12.2019

Saurabh