

In Chamber

Case :- CRIMINAL MISC. WRIT PETITION No. - 3435 of 2020

Petitioner :- Rajendra Pandey @ Rajan Pandey

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

Counsel for Petitioner :- Brij Raj

Counsel for Respondent :- G.A.

Hon'ble Manoj Misra,J.

Hon'ble Raj Beer Singh,J.

This petition has been placed before us under nomination order dated 29th May, 2020 of Hon'ble the Chief Justice.

The instant petition seeks quashing of the first information report dated 07.02.2020 registered as Case Crime No.62 of 2020, under Sections 147, 504, 506, 427, 384 IPC, P.S. Bhelupur, District Varanasi.

The learned counsel for the petitioner has submitted written arguments whereas Sri Deepak Mishra, learned A.G.A., who represents the State-respondents, was heard through video conference.

On behalf of the petitioner the submission is that though the impugned FIR may disclose commission of a cognizable offence but the allegations are false and mala fide and in fact there is a civil dispute pending between the parties in respect of their respective portions of plot no.463. It has been submitted that in so far as the offences punishable under Sections 147, 504, 506, 427 IPC are concerned, they are bailable in nature whereas the offence punishable under Section 384 IPC is not made out because as per the allegations a demand of Rs.30,00,000/- was made for the land which the accused claimed that it belonged to him. It has been submitted that if the demand is made in respect of one's own land, then there can be no extortion but a mere civil dispute.

Learned A.G.A. has opposed the prayer for quashing of the first information report on the ground that although as per the claim of the petitioner there is civil dispute pending between the parties but as there are various factual issues, the matter would require investigation therefore it would not be appropriate to quash the first information report.

Be that as it may, considering the rival submissions as also that there is pending civil dispute between the parties, we deem it appropriate to **dispose off** this petition by providing that the investigation of the case shall continue and brought to its logical conclusion but the petitioner shall not be arrested in the aforesaid case till submission of police report under Section 173(2) Cr.P.C., provided he co-operates in the investigation.

Order Date :- 30.5.2020

AKShukla/-