

**Court No. - 47**

**Case :-** CRIMINAL MISC. WRIT PETITION No. - 11135 of 2021

**Petitioner :-** Yes Bank Limited

**Respondent :-** State Of U P And 2 Others

**Counsel for Petitioner :-** Rahul Agarwal

**Counsel for Respondent :-** G.A.,Nipun Singh

**Hon'ble Mahesh Chandra Tripathi,J.**

**Hon'ble Subhash Vidyarthi,J.**

We have heard Shri Abhishek Manu Singhvi, learned Senior Advocate through video conferencing, and Shri Amit Saxena, learned Senior Advocate assisted by Shri Rahul Agarwal for the petitioner; Shri Manish Goyal, learned Senior Advocate/Additional Advocate General assisted by Shri A.K. Sand, learned A.G.A. for State respondent nos.1 and 2 and Shri G.S. Chaturvedi, learned Senior Advocate, Shri Navin Sinha, learned Senior Advocate and Shri Anurag Khanna, learned Senior Advocate assisted by Shri Nipun Singh, Advocate, Ms. Somya Chaturvedi, Advocate & Kalpana Sinha, Advocate appearing for the third respondent. The arguments have been concluded at 04.30 PM.

The present writ petition under Article 226 of Constitution of India has been filed inter alia to challenge the impugned FIR No.0821 dated 12th September, 2020, registered at the Police Station in Gautam Buddha Nagar, Noida, Uttar Pradesh under Sections 420, 467, 468, 409, 107, 109, 120-B and 34 of Indian Penal Code, 1860 and impugned notices dated 5th November, 2021 issued by Respondent No.2 to the petitioner and the National Securities Depository Limited, under Section 102 of the Code of Criminal Procedure, 1973. Against the notice impugned dated 5.11.2021 the petitioner bank has a statutory remedy to approach learned Magistrate Court under Sections 451 and 457 Cr.P.C. for appropriate relief. We are of the opinion that the writ jurisdiction should not be exercised to stifle the legitimate investigation. It is well settled that the High Court should normally refrain from giving prima facie decision, in case, where the entire facts are incomplete and hazy, more so, when the evidence has not been collected and produced before the Court. The issues involved whether factual or legal are of magnitude and cannot be seen in their true perspective without sufficient material. In the present matter, we lack sufficient material. Therefore, we are of the opinion that disputed facts cannot be examined under Article 226 of Constitution of India and once efficacious statutory remedy is available to the petitioner against the notice impugned, then we decline to exercise our discretionary jurisdiction under Article 226 of Constitution of India. Accordingly, the writ petition fails and is dismissed on the ground of availability of statutory remedy.

The detailed reasons to follow later.

Order Date :- 25.11.2021

RKP