

Court No. - 46

Case :- CRIMINAL MISC. WRIT PETITION No. - 18302 of 2022

Petitioner :- Dilip Kumar Singh Alias Deepu Singh

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

Counsel for Petitioner :- Arvind Kumar Upadhyay

Counsel for Respondent :- G.A., Dharmaveer Singh

Hon'ble Anjani Kumar Mishra, J.

Hon'ble Ms. Nand Prabha Shukla, J.

Delivered by Hon'ble Ms. Nand Prabha Shukla, J.

Heard learned counsel for the petitioner, learned A.G.A. for the State and perused the record.

The instant writ petition seeks quashing of the FIR dated 17.11.2022 giving rise to FIR No. 513 of 2022, under Sections 419, 420, 467, 468, 471, 409 IPC, Police Station- Kotwali Mau, District- Mau.

The main contention of learned counsel for the petitioner is that petitioner is the proprietor of M/s Singh Construction, Nizamuddinpura, Mau and was awarded work order as a contractor from the Nagar Palika Parishad, Maunath Bhanjan, Mau for the purposes of cleaning 14 wards including Urban Poor settlements and slum areas from the period 01.04.2017 to 31.03.2018 for which about 275 Safai Karmcharis were employed.

It has further been contended that the petitioner has been falsely implicated with the mala fide intention. Adding to the above, it has been contended that the civil litigation is already sub-judice before the Provident Fund Commissioner, Varanasi.

Per contra, learned AGA for the State has opposed the aforesaid submissions and has stated that the petitioner has not deposited the provident fund amount of Safai Karmcharis and has produced fake copies of challans/receipts, resulting in embezzlement of EPF amount of Rs. 285 employees.

Considering the aforesaid facts, it cannot be denied that there is no express bar to the simultaneous continuance of a criminal proceeding as well as civil proceedings. Citing the decision rendered by *Hon'ble Supreme Court in (1999) 8 SCC 686 (Trisuns Chemical Industry Vs. Rajesh Agarwal & Others)*. It has been held that criminal prosecution cannot be thwarted merely because civil proceedings are also maintainable. Merely because an act has a civil profile is not sufficient to denude it of its criminal outfit.

Thus, even if the civil proceedings are subjudice before the Provident Fund Commissioner, Varanasi, the criminal prosecution can still proceed against the petitioner.

Having considered the submissions advanced by learned counsel for the parties and from the perusal of records, it is apparent that the allegations in the FIR do constitute ingredients of a cognizable offence.

No interference is required.

The writ petition is, therefore, ***dismissed***.

Order Date :- 22.5.2023

Shivani