

**Court No. - 43**

**Case :-** CRIMINAL MISC. WRIT PETITION No. - 9444 of 2020

**Petitioner :-** Anurag Tiwari

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

**Counsel for Petitioner :-** Pooja Chaudhary, Sharda Prasad Mishra

**Counsel for Respondent :-** G.A., I.D. Mishra

**2. Case :-** CRIMINAL MISC. WRIT PETITION No. - 9448 of 2020

**Petitioner :-** Dev Murari

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

**Counsel for Petitioner :-** Sharda Prasad Mishra, Pooja Chaudhary

**Counsel for Respondent :-** G.A. and

**Case :-** CRIMINAL MISC. WRIT PETITION No. - 9457 of 2020

**Petitioner :-** Saint Gopaldas

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

**Counsel for Petitioner :-** Sharda Prasad Mishra, Pooja Chaudhary

**Counsel for Respondent :-** G.A., Indra Deo Mishra, Shri Ram (Rawat)

**Hon'ble Pankaj Naqvi, J.**

**Hon'ble Vivek Agarwal, J.**

1. These three writ petitions have been filed by three accused persons named in the FIR No. 0274 dated 20.8.2020 registered at police station Govind Nagar, district Mathura under the provisions of Section 406, 419, 420, 463, 465, 467, 468, 469, 471 and 153-A IPC so also under section 66-D of Information of Technology Act.

2. Petitioners contention is that they are engaged in the work of development of Krishna Janambhumi and have in furtherance of their objective registered a Trust namely 'Shri Krishna Janambhumi Nirman Nyas' before the concerned authority at Mathura. Copy of Trust deed has been enclosed as Annexure-2 to the writ petition. This Trust was registered in the office of Sub-Registrar: Sadar Dwitiya, Mathura on 23.7.2020.

3. Being aggrieved of registration of such Trust by the petitioners with the help of certain other persons, Sri Krishna Janambhumi Trust through its Secretary Sri Kapil Sharma lodged the FIR in question alleging that Sri Krishna Janambhumi Trust is a registered body having existence over 7 decades yet with an intention to interfere in their work and fraudulently misrepresent to the public to collect funds in the name of reconstruction of Sri Krishna Janambhumi and on such presumption that complainants have exclusive rights to work for the preservation and maintenance of Sri Krishna Janambhumi, being aggrieved of registration of another society treating it to be a rival society, FIR has been lodged whereas, in fact, if there is any grievance to the complainants then there is forum for ventilation of

such grievance under the provisions of the Trust Act so also under the Civil Law, therefore, on such premise it is submitted that FIR is motivated with mala fide intention and the ingredients of the FIR does not disclose any fact giving rise to commission of any offence as has been alleged by the complainant.

4. Counsel for the respondents in his turn submits that petitioners are having evil intention and they want to grab the property of Sri Krishna Janambhumi by establishing a parallel organisation. Their intention is to collect money from the public by arousing their religious sentiments cause dent to the reputation of the complainant Trust which is already working for over 70 years. It is submitted that if any indulgence is shown by the court for the present then that may result in promoting enmity between different groups on the grounds of religion, race, place of birth, residence and language etc and may be prejudicial to maintenance of harmony.

5. After hearing arguments of counsel for the petitioner and also the counsel for the informant and perusal of records, it is apparent that petitioners have filed an incorrect typed copy of the impugned FIR inasmuch as they have given crime no. as 1113 and date of registration of FIR as 6.12.2019, police station Modinagar, district Ghaziabad, which prima facie reveals that petitioners have not filed true copy of the FIR. Photo copy of which is available on record showing crime No. 0274 registered at police station Govind Nagar, district Mathura on 20.8.2020.

6. Instead of taking action against the petitioners for filing incorrect document on record, in view of the availability of photostat copy of the actual FIR, we are dealing with the merits of the case.

7. The rival contentions and the legality of such rival contentions can be examined before the trial court after giving opportunity of hearing to the accused persons with prosecution material after investigation is concluded and at this stage in the writ jurisdiction rival claims of the petitioners cannot be adjudicated especially looking to the fact that religious beliefs and faith have their own vulnerability. It is the material collected during investigation which on due appreciation can help the courts to arrive at conclusion whether the dispute is in regard to sovereignty over the Sri Krishna Jamanbhumi or the dispute otherwise covers the offence as have been mentioned in the FIR

8. Prima facie we are in agreement that as far as registration of Trust by the petitioners is concerned, i.e. largely a civil dispute which is capable of being adjudicated before the machinery provided under the Trusts Act under which Trust has been registered.

9. However, as we are handicapped in absence of cogent material to arrive at a conclusion as to whether FIR is off shoot of inter group rivalry or as the potential of turning into an act of criminality which can be best left to the judgment of the trial court, for the present it

will be appropriate to extend benefit under section 173(2) of the Cr.P.C. in favour of the petitioners directing the police authorities to not to take any coercive action against the petitioners in case they cooperate with the investigation till the filing of the charge sheet.

10. We hope and trust that this protection extended in favour of the petitioners will not be taken as a ground to prolong the investigation and the authorities of the State will be obliged to expeditiously complete the investigation and if possible and not already completed within three months from the date of receipt of computer generated copy of this order which will be verified by the authorities of the State from the official Website of the High Court.

11. In above terms, writ petitions are disposed off.

**Order Date :- 8.10.2020**

S.K.S.