

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 6576 of 2023

Petitioner :- Ravi Dubey @ Ravi Kumar Dubey And 3 Others

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

Counsel for Petitioner :- Suneel Kumar Mishra, Pramod Kumar Mishra

Counsel for Respondent :- G.A., Akhilesh Kumar Tiwari, Rahul Mishra

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Heard Suneel Kumar Mishra, learned counsel for the petitioners as well as Shri Surendra Singh, learned A.G.A. for the State respondents.

2. The present writ petition has been preferred with the prayer to quash the impugned First Information Report dated 07.12.2022 registered as Case Crime No.0174 of 2022, under Sections 498A, 504, 506, 323 IPC and Section 3/4 of D.P. Act, P.S. Jigna, District Mirzapur, and for a direction to the police not to arrest the petitioners in pursuance of impugned First Information Report.

3. While granting interim protection vide order dated 28.04.2023, this Court after issuing notice to the respondent no. 3, called for counter affidavit, but till date no counter affidavit has been filed. In such view of the matter, we proceed to hearing the matter on merits.

4. The submission is that all alleged offences are punishable with imprisonment upto seven years, therefore the police authorities are bound to follow the procedure as laid down under Section 41-A Cr.P.C. The petitioners have been wrongly implicated, and could not be arrested. Reliance has been placed on the judgement of Apex Court in **Arnesh Kumar Vs. State of Bihar, (2014) 8 SCC 273 and Social Action Forum for Manav Adhikar Vs. Union of India, Ministry of Law and Justice and others in Writ Petition (Civil) No. 73 of 2015 with Criminal Appeal No. 1265 of 2017 Writ Petition (Criminal) No. 156 of 2017 and in Satendra Kumar Antil vs. Central Bureau of Investigation and Another (2022) 10 SCC 51** and co-ordinate Division Bench of this Court in **Vimal Kumar & 3 others Vs. State of U.P. & 3 others in 2021**

(2) ACR 1147.

5. We have gone through the impugned First Information Report and we are of the opinion that the guidelines framed by the Apex Court in the above noted judgements are equally applicable to the facts of the instant case.

6. Accordingly, the instant petition also stands **disposed of** in terms of the judgements as noted above.

Order Date :- 3.11.2023

Shafique