

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 8035 of 2023

Petitioner :- Kesar Singh

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

Counsel for Petitioner :- Shri Krishna Mishra, Ajay Mishra

Counsel for Respondent :- G.A., Umesh Kumar Shukla

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Heard Shri Ajay Mishra, learned counsel for the petitioner, Shri Umesh Kumar Shukla, learned counsel for the informant as well as Shri G.P. 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 17.05.2023 registered as Case Crime No.0238 of 2023, under Sections 147, 406, 506 IPC, P.S. Dhoomanganj, District Prayagraj, and for a direction to the police not to arrest the petitioner in pursuance of impugned First Information Report.

3. Vide order dated 31.05.2023, the matter was referred to the Mediation Centre and as per report of Mediation Centre dated 29.08.2023, the parties are not willing for mediation. Therefore, we proceed to decide 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 petitioner has 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