

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 10397 of 2023

Petitioner :- Dharm Singh @ Dheeraj

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

Counsel for Petitioner :- Sonu Kumar Tiwari

Counsel for Respondent :- G.A.,Pradeep Kumar Srivastava

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Sri Ram Milan Dwivedi holding brief of Sri Rupesh Kumar Mishra, learned counsel for the petitioner, Sri Pradeep Kumar Srivastava, learned counsel appearing for the informant and learned A.G.A for the State respondents.

2. The relief sought in this petition is for quashing of the F.I.R. dated 21.3.2023 registered as Case Crime No. 101 of 2023 under Sections 420, 406 IPC, Police Station Zarif Nagar, District Budaun. Further prayer has been made not to arrest the petitioner in the aforesaid case.

3. Submission of learned counsel for the petitioner is that the present First Information Report is nothing but a counterblast to the criminal prosecution lodged by the petitioner side in the year 2020 in respect of daughter, who was kidnapped and raped by the informant, wherein charge-sheet no. 13 of 2020 dated 29.1.2020 has been submitted and cognizance whereof was also taken by the court. It is next submitted that it is only for this reason present First Information Report has been lodged to put pressure on the petitioner to settle the aforesaid dispute. It is next submitted that no fraud was committed by the petitioner.

4. Per contra, learned counsel appearing for the informant submits that the provisions of POCSO Act were falsely implicated against the informant by showing different mark-sheet in the earlier criminal prosecution lodged against the informant and the money has been paid in the bank account of the petitioner and in any case the incident is of the year 2020, which cannot be taken as a counterblast after three years.

5. Learned AGA opposed the prayer for quashing of the FIR,

which discloses cognizable offence and submits that initially First Information Report was lodged under Sections 406, 420 IPC, whereas during investigation sections 467, 468, 471 IPC have been added.

6. We find substance in the argument of learned counsel appearing for the informant and learned A.G.A. particularly in view of the fact that the allegation is that the money was paid in the bank account, which is not in dispute.

7. Therefore, in the light of **State of Haryana and others vs. Bhajan Lal and others, 1992 Supp. (1) SCC 335** no interference is warranted with the impugned First Information Report.

8. Present petition is devoid of merits and is accordingly **dismissed**.

Order Date :- 8.11.2023

Lalit Shukla