

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 11703 of 2023

Petitioner :- Sampurnanand Pathak @ Rahul Pathak And 4 Others

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

Counsel for Petitioner :- Arvind Prabodh Dubey

Counsel for Respondent :- G.A., Hari Om Ojha

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. For last few days notice is being placed on noticeboard that all passed over matters shall be taken up in first call.
2. No one is present to press this petition on behalf of the informant.
3. Heard Shri Arvind Prabodh Dubey, learned counsel for the petitioners and Shri Surendra Singh, learned A.G.A. appearing for the State respondents.
4. This writ petition has been filed with the prayer to quash the First Information Report dated 20.6.2023 registered as Case Crime No. 308 of 2023, under Sections 504, 323, 352, 452, 506, 376, 308 IPC, P.S. Sahjanwa, District Gorakhpur.
5. Submission of learned counsel for the petitioners is that (i) the registration of the impugned First Information Report is misuse of process of law; (ii) on the basis of same facts a First Information Report was lodged by the informant on 11.12.2020, which was registered as Case Crime No. 812 of 2020, under Sections 498-A, 323, 506, 366, 120-B IPC, Police Station Sahjanwa, District Gorakhpur; (iii) the allegations in the impugned First Information Report are highly improbable and cannot be imagined to any extent to be true, which are hit by the Hindu traditions and customs and such marriage is impermissible under the Hindu Marriage Act; (iv) there is no medical report, which can substantiate the allegations made in the impugned First Information Report; (v) there is delay in registration of impugned First Information Report, which has not been explained; (vi) and finally the impugned First Information Report has been lodged to grab the property of the husband, who has since died.

6. *Per contra*, learned A.G.A. submits that there are specific allegations against the petitioners in the impugned First Information Report and the date, time and incident of the allegations mentioned in the second First Information report are different and separate. It is next submitted that the investigation is in progress and there is no delay in registration of the impugned First Information Report and the allegations levelled against the petitioners are serious in nature.

7. Be that as it may, without going into the aspect of the findings and the truth of the contention of learned counsel for the parties there is no scope under Article 226 of the Constitution of India for quashing the impugned First Information Report. On plain reading of the contents of the impugned First Information Report commission of a cognizable offence is made out.

8. Additionally, learned counsel for the petitioners failed to prove its case within the ambit of **State of Haryana and others vs. Bhajan Lal and others, 1992 Supp. (1) SCC 335.**

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

Order Date :- 1.11.2023

Lalit Shukla