

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 11741 of 2023

Petitioner :- Shivnath Chaurasia And 14 Others

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

Counsel for Petitioner :- Shashi Prakash Misra,Rajnath Yadav

Counsel for Respondent :- G.A.

With

Case :- CRIMINAL MISC. WRIT PETITION No. - 12640 of 2023

Petitioner :- Sunil Kumar Srivastava And Another

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

Counsel for Petitioner :- Vijay Kumar Pandey

Counsel for Respondent :- G.A.

With

Case :- CRIMINAL MISC. WRIT PETITION No. - 13636 of 2023

Petitioner :- Ram Avatar Yadav And 2 Others

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

Counsel for Petitioner :- Rajnath Yadav,Shashi Prakash Misra

Counsel for Respondent :- G.A.

With

Case :- CRIMINAL MISC. WRIT PETITION No. - 14188 of 2023

Petitioner :- Rama Shankar Yadav And Another

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

Counsel for Petitioner :- Rajnath Yadav

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. For last few days notice is being placed on the noticeboard that all passed-over matters shall be taken up in first call.

2. A prayer for adjournment is being made on behalf of Shri Rajnath Yadav, learned counsel for the petitioners in Criminal Misc. Writ Petition No.11741 of 2023, Criminal Misc. Writ Petition No.13636 of 2023 and Criminal Misc. Writ Petition No.14188 of 2023, on the ground that he is ill.

3. No one is present on behalf of the petitioners in Criminal Misc. Writ Petition No.12640 of 2023.

4. We find the name of one more counsel Shri Shashi Prakash Misra has been printed in the cause list but he is also not present today.

5. In Criminal Misc. Writ Petition No.11741 of 2023 the petitioners are seeking quashing of the impugned First Information Report dated 11.06.2023, registered as Case Crime No.0140 of 2023, under section 409 IPC, Police Station Madiyahun, District Jaunpur.

6. In Criminal Misc. Writ Petition No.12640 of 2023 the petitioners are seeking quashing of the impugned First Information Report dated 12.06.2023, registered as Case Crime No.161 of 2023, under section 409 IPC, Police Station Badlapur, District Jaunpur.

7. In Criminal Misc. Writ Petition No.13636 of 2023 the petitioners are seeking quashing of the impugned First Information Report dated 11.06.2023, registered as Case Crime No.201 of 2023, under section 409 IPC, Police Station Kerakat, District Jaunpur.

8. In Criminal Misc. Writ Petition No.14188 of 2023 the petitioners are seeking quashing of the impugned First Information Report dated 12.06.2023, registered as Case Crime No.134 of 2023, under section 409 IPC, Police Station Sikara, District Jaunpur.

9. We also find that in connection with same case crime, one Criminal Misc. Writ Petition No.13665 of 2023 (Bisheshar Yadav and Others vs. State of U.P. and 3 Others) was dismissed by this Court vide order dated 25.09.2023 and one Criminal Misc. Writ Petition No.13681 of 2023 (Virendra Prasad Dubey vs. State of U.P. and 3 Others) was dismissed by a co-ordinate Bench of this Court vide order dated 29.08.2023. One of the the order dated 25.09.2023 passed in Criminal Misc. Writ Petition No.13665 of 2023 (Bisheshar Yadav and Others vs. State of U.P. and 3 Others) is quoted as under:-

"1. Heard Shri Sandeep Kumar, learned counsel for the petitioners and Shri Ratan Singh, learned A.G.A for the State respondents.

2. The relief sought in this petition is for quashing of the F.I.R. dated 11.06.2023, registered as Case Crime No.0140 of 2023, under Section 409

IPC, Police Station Madiyahun, District Jaunpur. Further prayer has been made not to arrest the petitioners in the aforesaid case.

3. By drawing attention to the interim order dated 28.07.2023 passed by this Court in Criminal Misc. Writ Petition No.11741 of 2023 it is submitted by the learned counsel for the petitioner that co-accused persons have already been granted indulgence by this Court and the present petitioners are also entitled for the same protection.

4. However, we find that in connection with same case crime number earlier writ petition filed by co-accused persons being Criminal Misc. Writ Petition No. 13681 of 2023 (Virendra Prasad Dubey @ Virendra Nath Dubey And Another vs. State of U.P. and 3 Others) was dismissed by this Court vide order dated 29.08.2023. The said order reads as under:-

"Heard learned counsel for the petitioner and learned A.G.A. for the State.

The instant writ petition seeks quashing of the FIR dated 11.6.2023 giving rise to Case Crime No.0140 of 2023, under Section 409 I.P.C., Police Station-Madiyahun, District- Jaunpur.

Upon hearing learned counsel for the parties and upon a perusal of the record, we find that the submissions made on behalf of the petitioner are his defence, which cannot be looked into while dealing with a writ petition seeking quashing of a first information report.

Moreover, the allegations made in the First Information Report clearly disclose commission of cognizable offences and the allegations are serious in nature. Therefore, prayer of the petitioner to quash the First Information Report is completely misconceived and is rejected.

The writ petition is therefore dismissed, without prejudice to the right of the petitioners to apply for bail/anticipatory bail."

5. Therefore, we are not persuaded to take a different view of the matter.

6. In view of the law laid down by Hon'ble Supreme Court in the case of State of Haryana and others vs. Bhajan Lal and others, 1992 Supp. (1) SCC 335 and M/s Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra, AIR 2021 SC 1918 and in Special Leave to Appeal (Crl.) No.3262/2021 (Leelavati Devi @ Leelawati & another vs. the State of Uttar Pradesh) decided on 07.10.2021, no case has been made out for interference with the impugned first information report.

7. Therefore, the writ petition is dismissed leaving it open for the petitioners to apply before the competent court for anticipatory bail/bail as permissible under law and in accordance with law."

10. In this view of the matter, prayer for adjournment is refused.

11. After going through the records, we are not persuaded to take a different view of the matter.

12 All four writ petitions are dismissed for want of prosecution and on merits as well.

Order Date :- 2.11.2023
Nitendra