

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 13331 of 2023

Petitioner :- Arab Singh And Another

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

Counsel for Petitioner :- Manish Kumar Kashyap, V.P. Singh Kashyap

Counsel for Respondent :- G.A., Preet Pal Singh Rathore

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Heard Sri V.P. Singh Kashyap, learned counsel for the petitioners, Sri Preet Pal Singh Rathore, learned counsel appearing for the informant and Sri Virendra Kumar Pal, learned A.G.A for the State respondents.

2. The relief sought in this petition is for quashing of the F.I.R. dated 26.6.2023 registered as Case Crime No. 90 of 2023 under Sections 363, 366, 342 IPC and Section 11/12 of POCSO Act, Police Station Sikandarpur Vashya, District Kasganj. Further prayer has been made not to arrest the petitioner in the aforesaid case.

3. It is not in dispute that during investigation Section 376-D IPC, Section 5/6 of POCSO Act have been added and Section 11/12 of POCSO Act has been deleted.

4. Submission of learned counsel for the petitioner is that as per high-school certificate date of birth of the victim, who has come forward to file affidavit in support of the present petition, is 1.1.2002 and she is major. It is next submitted that the victim has left her house with someone else and the petitioner has been falsely implicated in the present case.

5. Per contra, learned counsel appearing for the informant submits that a forged high-school mark-sheet has been annexed.

6. Learned A.G.A. submits that he is not having complete investigation report in respect of high-school mark-sheet, however, as per mark-sheet the date of birth of the victim is 1.1.2002 and she appears to be major. He, however, pointed out that in the

statement recorded under Section 164 Cr.P.C. the victim has supported the prosecution version. He opposed the prayer for quashing of the FIR, which discloses cognizable offence.

7. We find that Section 376-D IPC has been added during investigation and in the statement recorded under Section 164 Cr.P.C. the victim has supported the prosecution version, therefore, we do not find any good ground to exercise our powers under Article 226 of the Constitution of India.

8. 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.

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

Order Date :- 8.11.2023

Lalit Shukla