

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 14727 of 2023

Petitioner :- Rafi Ahmad

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

Counsel for Petitioner :- Brijendra Kumar

Counsel for Respondent :- G.A.,Shaheen Bano,Shahnawaz Khan

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Sri Brijendra Kumar, learned counsel for the petitioner and learned A.G.A for the State respondents and Ms. Shaheen Bano, learned counsel for the informant.

2. The relief sought in this petition is for quashing of the F.I.R. dated 6.8.2023 registered as Case Crime No. 367 of 2023, under Sections 328, 304 IPC, Police Station Katra, District Shahjahanpur. Further prayer has been made not to arrest the petitioner in the aforesaid case.

3. Submission of the learned counsel for the petitioner is that the petitioner has been falsely implicated and no offence is made out against the petitioner. It is next submitted that he was not present on the spot and he is a resident of different place. It is further submitted that when payment of paddy supply was claimed by the petitioner, this FIR has been lodged and he has been falsely implicated.

4. Learned counsel for the informant submits that it is a case where poison was administered in cold drink.

5. Learned AGA opposed the prayer for quashing of the FIR, which discloses cognizable offence. It is submitted that viscera has been sent to laboratory for investigation purpose and report is still awaited. It is further submitted that death under unnatural circumstances has taken place and as such, no interference is warranted.

6. Perusal of the impugned first information report prima facie reveals commission of cognizable offence.

7. Therefore, 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.

8 Therefore, the writ petition is dismissed.

Order Date :- 31.10.2023

Abhishek