

Court No. - 71

Case :- MATTERS UNDER ARTICLE 227 No. - 9351 of 2023

Petitioner :- Jamil Ahmad And 5 Others

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Bhuvnesh Kumar Singh, Amar Jeet Singh

Counsel for Respondent :- G.A.

Hon'ble Shekhar Kumar Yadav, J.

1. Heard learned counsel for the petitioners and learned AGA for the State respondent.

2. By means of this writ petition, petitioners have prayed for quashing of the impugned order dated 23.01.2023 passed by Sessions Judge, Bijnor in Criminal Revision No. 283 of 2022 as well as the impugned order dated 22.07.2022 passed by C.J.M., Bijnor in Final Report No. 63 of 2021, whereby the petitioners have been summoned to face the trial for the offences under Sections 147, 148, 307, 342, 323, 504, 506 IPC.

3. It is contended by learned counsel for the petitioners that opposite party no. 2 has filed an application under Section 156(3) Cr.P.C. against the applicants, upon which FIR was registered against the petitioners vide Case Crime No. 360 of 2020, under Sections 147, 148, 307, 342, 323, 506 IPC in which after investigation, the Investigating Officer filed final report against the petitioners. Against which informant filed protest petition upon which learned Magistrate rejected the final report submitted against the petitioners and summoned the petitioners to face the trial for the said offences vide order dated 22.07.2022. Aggrieved against this order, petitioners preferred Criminal Revision, which was rejected by the Court vide order dated 23.01.2023 and the order of the learned Magistrate was affirmed. It is this order which is subject matter of challenge before this Court.

4. It is contended by learned counsel for the petitioners that present criminal proceeding has been launched against the petitioners with malicious intention and just to harass them

as no offence is made out against the petitioners. It is further submitted by learned counsel for the petitioner that both the courts below have not applied its judicial mind before summoning the petitioners and thus have committed gross illegality in passing the impugned orders. He further submits that no offence against the petitioners is disclosed and the present prosecution has been instituted with a malafide intention for the purposes of harassment. It is further submitted that medical report relied upon by the prosecution is totally fabricated and manufactured as the same clearly shows that the maximum injuries are contusion, abrasion and complaint of pain and there is no internal damage found as such no offence under Section 307 IPC is made out.

5. After arguing for some time, petitioners' counsel submits that a direction may be issued to the court below to decide the bail application of the petitioners in view of the judgement in the case of **Satender Kumar Antil vs. Central Bureau of Investigation and another, reported in 2021 SCC Online SC 922.**

6. From the perusal of material on record and looking into the facts of the case at this stage it cannot be said that no offence is made out against the petitioners. All the submissions made at the bar relate to the disputed questions of fact, which cannot be adjudicated upon by this court under the writ jurisdiction. The disputed defense of the accused cannot be considered at this stage. Since, the petitioners have been summoned by the Trial Court, they will have various opportunities before the Trial Court to agitate their grievance at appropriate stages.

7. The prayer for quashing the impugned orders is refused. Accordingly, the writ petition is hereby dismissed. However, considering the facts and circumstances of the case, if the petitioners appears before the Court below in compliance of the summoning order passed by the Court below within 15 days of this order and apply for bail, their prayer for bail shall be considered and disposed of in accordance with law.

Order Date :- 26.10.2023
RavindraKSingh