

Court No. - 81

Case :- MATTERS UNDER ARTICLE 227 No. - 9570 of 2023

Petitioner :- Amrawati And 3 Others

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Sanjeev Kumar, Rakesh Kumar Rathore

Counsel for Respondent :- G.A.

Hon'ble Mrs. Jyotsna Sharma, J.

1. Heard Shri Rakesh Kumar Rathore, learned counsel for the petitioners, Shri Anurag Pandey, learned counsel for the respondents and learned AGA for the State and perused the record.

2. This writ petition has been filed with a request that the non bailable warrants issued by the Additional Chief Judicial Magistrate in Complaint Case No.1719 of 2018, under Section 379 IPC may be set aside and the respondents may be directed not to harass the petitioners in pursuance of those non bailable warrants.

3. From the submissions of learned counsel for the petitioners following relevant facts emerge.

The petitioners were summoned in the above noted complaint case. They filed an application under Section 482 Cr.P.C. being Petition No.31452 of 2019 with a prayer to quash the entire proceeding of the complaint case. The High Court passed an interim order, staying the effect and operation of the summoning order. This order of stay was passed by the High Court on 20.08.2019 and proceeding of complaint case came to standstill. Subsequently, the trial Court passed a fresh order on 02.03.2023 in the light of the judgement of the Supreme Court in the case of ***Asian Resurfacing of Road Agency Pvt. Ltd. and another Vs. Central Bureau of Investigation, reported in 2018(16) SCC 299***, and further proceeded in the matter. The learned trial Court observed that the accused persons did not file any specific order of the High Court extending the stay order.

4. Admittedly, the non bailable warrants have been issued against the accused persons after the trial Court proceeded further in the light of the directions of the Supreme Court. It is difficult to understand that why the petitioner did not move before the Bench of High Court, which was seized of the matter under Section 482 Cr.P.C. for extension of interim stay. Admittedly, Petition No.31452 of 2019, under Section 482 Cr.P.C. still pending.

5. In my view, the learned Court below rightly applied the law laid down in Asian Resurfacing case (supra) and this petition is devoid of any merit.

6. Hence, the petition is hereby dismissed.

7. Copy of this order be certified to the court concerned.

Order Date :- 12.10.2023

RKM