

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 14767 of 2023

Petitioner :- Vijay Shankar Yadav And Another

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

Counsel for Petitioner :- Rajesh Kumar, Vinod Kumar

Counsel for Respondent :- G.A., Sanjay Singh, Shivam Singh

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Supplementary affidavit filed today on behalf of petitioners is taken on record.
2. Heard Ghanshyam Yadav, Advocate, holding brief of Shri Rajesh Kumar, learned counsel for the petitioners, Shri Sanjay Singh, learned counsel for the informant and Shri G.P. Singh, learned A.G.A for the State respondents.
3. The relief sought in this petition is for quashing of the F.I.R. dated 14.08.2023, registered as Case Crime No. 146 of 2023, under Sections 376, 504, 506 I.P.C. and Section 67 of Information Technology (Amendment Act) 2000, Police Station Mardah, District Ghazipur. Further prayer has been made not to arrest the petitioners in the aforesaid case.
4. Submission of learned counsel for the petitioners is that the petitioner no. 1 is a Government employee and the some dispute had taken place regarding deposit of the amount as the informant was working as B.C. Sakhi (Samooch Sakhi) and it is only because of some dispute regarding deposit of the amount, the present criminal prosecution has been lodged with *malafide* intention.
5. Per contra, learned A.G.A., on instructions, submits that a heinous offence of Section 376 I.P.C. is clearly disclosed. Even the photographs were made viral and, therefore, a cognizable offence is made out.
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. 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.

Order Date :- 12.10.2023

Shafique