

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 15034 of 2023

Petitioner :- Umesh Chauhan

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

Counsel for Petitioner :- Narendra Pratap Singh, Arvind Kumar Singh, Sanjeev Kumar Kushwaha

Counsel for Respondent :- G.A., Anil Kumar Yadav, Vishwa Nath Pandey

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Heard Shri Arvind Kuma Singh, learned counsel for the petitioner, Shri Vishwa Nath Pandey, learned counsel for the informant and Shri Vibhav Ojha, learned A.G.A for the State respondents.

2. The relief sought in this petition is for quashing of the F.I.R. dated 30.08.2023, registered as Case Crime No. 563 of 2023, under Sections 376, 452, 506 IPC and Section 67 I.T. Act, 2008, Police Station Hata, District Kushinagar. 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 in the present case to put pressure on him. It is further submitted that the informant is a married lady and has one daughter aged about two years; she was having love affection with the petitioner and impugned First Information Report under section 376 IPC has falsely been lodged against him. Attention was drawn to the photocopy of the photographs as well to submit that no offence under section 376 IPC has been committed. It is next and no offence under section 67 I.T. Act has been made out against the petitioner.

4. *Per contra*, learned counsel for the informant as well as learned AGA opposed the petition and submits that there is specific allegation of making the photographs viral and the same were sent to several other persons as well on whatsapp. It is further submitted that the statement of the victim recorded under section 164 Cr.P.C. is also supports the prosecution case, therefore, a cognizable offence is made out.

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

6. The writ petition is devoid of merit and is accordingly dismissed.

Order Date :- 19.10.2023

Nitendra