

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 15296 of 2023

Petitioner :- Radheshyam And Another

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

Counsel for Petitioner :- Uttar Kumar Goswami

Counsel for Respondent :- G.A.,Rajeev Kumar Saxena

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Shri Uttar Kumar Goswami, learned counsel for the petitioners and Shri G.P. Singh, learned A.G.A for the State respondents.
2. Shri Uttar Kumar Goswami, learned counsel for the petitioners has filed a mention slip, in which it is clearly mentioned that the case shall be taken up in the first round but the learned counsel for the informant has refused to accept the same. Mention slip is taken on record.
3. The relief sought in this petition is for quashing of the F.I.R. dated 06.07.2023, registered as Case Crime No. 0196 of 2023, under Section 302 IPC, Police Station Achhalda, District Auraiya. Further prayer has been made not to arrest the petitioners in the impugned FIR.
4. Submission of the learned counsel for the petitioners is that the allegations levelled against the petitioners are absolutely false and fabricated and in fact the complaint filed by the wife of the petitioner no.2 against the son of the informant Mahendra Kumar @ Nitu, details whereof has been given in paragraph 6 of the writ petition and in the complaint case summoning order was also issued. It is further submitted that admittedly no one has seen the incident and the petitioners have been falsely implicated in the present case with *mala fide* intention because of the background as narrated in paragraph 6 of the writ petition.
5. Per contra, learned AGA opposed the petition and submits that accused Mukesh has already been arrested and the petitioners are absconding and against them Non Bailable Warrants were issued. It is further pointed out that proceedings under section 82 Cr.P.C.

have also been issued against the petitioners.

6. 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.

7. Therefore, the writ petition is dismissed.

Order Date :- 26.10.2023

Nitendra