

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 15307 of 2023

Petitioner :- Chandrma @ Chanda

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

Counsel for Petitioner :- Adesh Kumar

Counsel for Respondent :- G.A.,Ishwar Chandra Tyagi

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Shri Adesh Kumar, learned counsel for the petitioner, Shri Ratan Singh, learned A.G.A for the State-respondents, Shri I.C. Tyagi, learned counsel for the informant, and perused the record.

2. The relief sought in this petition is for quashing of the impugned First Information Report dated 2.8.2023, registered as Case Crime No.214 of 2023, under Sections 328, 302, 201, 420, 120-B IPC, Police Station- Bhopa, District Muzaffarnagar. Further prayer has been made not to arrest the petitioner in the aforesaid case.

3. Submission of learned counsel for the petitioner is that the petitioner is innocent and has not committed any offence. The present criminal prosecution has been filed on an application under section 156(3) Cr.P.C. after much delay and no *post-mortem* was conducted in the present case. It was also submitted that during the investigation, nothing against the petitioner was found, however, the investigation is still pending, as such the impugned FIR is liable to be quashed.

4. *Per contra*, on instructions, learned A.G.A. submits that the relics (Asthi) were collected and have been sent for forensic test, and the investigation is still pending, therefore, at this stage, it cannot be said that no offence is made out.

5. On plain reading of the contents of the impugned FIR, *prima-facie*, we find that the commission of a cognizable offence is made out. The arguments being raised by learned counsel for the petitioner is nothing but a defence of the petitioner that cannot be considered for the purpose of quashing of the impugned FIR. The petitioner has also failed to bring his case within the parameters of

State of Haryana and others Vs. Bhajan Lal and others, 1992 Supp. (1) SCC 335. Therefore, the extra-ordinary power vests with this Court cannot be invoked in the facts-circumstances of the case.

6. The writ petition is devoid of merits, and is accordingly, **dismissed.**

Order Date :- 2.11.2023

Anil K. Sharma