

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 15200 of 2023

Petitioner :- Aman Kureel

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

Counsel for Petitioner :- Shiv Shankar Kaithal

Counsel for Respondent :- G.A.,Amit Tiwari,Devbrat Dwivedi,P.K. Singh,Subhash Chandra Tiwari

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Supplementary affidavit and counter affidavit filed today are taken on record.
2. Heard Shri Shiv Shankar Kaithal, learned counsel for the petitioner, Shri Subhash Chandra Tiwari, 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 03.09.2023, registered as Case Crime No. 206 of 2023, under Sections 354, 506 IPC and Section 7/8 POCSO Act, P.S. Sarh, District Kanpur Nagar. Further prayer has been made not to arrest the petitioner in the aforesaid case.
4. Submission of the learned counsel for the petitioner is that no offence as alleged has been committed by the petitioner; he has been falsely implicated in the present case. It is further submitted that the petitioner is the student and it is being alleged that incident had taken place during broad day light but no witness of the incident has been named in the impugned FIR and the present criminal prosecution has been lodged due to village party-bandi.
5. *Per contra*, learned counsel for the informant submits that the victim was being constantly harassed; she was also harassed in the police station as well. Learned counsel for the informant has drawn the attention to various documents annexed with the counter affidavit.
6. Learned AGA opposed the prayer for quashing of the FIR, which discloses cognizable offence.

7. Be that as it may, we find that there is allegation of repeated commission of offence by the petitioner herein, therefore, a cognizable offence is made out. 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. However, we find that the allegations made against concerned Investigating Officer in the counter affidavit by annexing newspapers cutting etc. and the medical report of the victim appear to be serious.

9. In such circumstances, learned AGA is directed to send a copy of this order alongwith copy of the petition as well as counter affidavit to the Commissioner of Police, Commissionerate, Kanpur Nagar who shall himself look into the matter and pass appropriate orders as may be required in the present case.

10. The writ petition is dismissed with the observations made above.

Order Date :- 31.10.2023

Nitendra