

Court No. - 46

Case :- CRIMINAL MISC. WRIT PETITION No. - 15621 of 2023

Petitioner :- Ashok

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

Counsel for Petitioner :- Pratibha Jaiswal

Counsel for Respondent :- G.A.

Hon'ble Ashwani Kumar Mishra,J.

Hon'ble Syed Aftab Husain Rizvi,J.

Heard learned counsel for the petitioner and learned AGA for the State.

This writ petition has been filed with the prayer to quash the First Information Report, registered as Case Crime No. 71 of 2023, under Sections 376, 452, 506 IPC and Section 3(1) (Da), 3(1) (Dha) & 3(2) (Va) of SC/ST Act, Police Station Rajpur, District Sonbhadra.

It is stated that the prosecutrix is a 40 year old lady, who was in a consensual relationship with accused. Various photographs have been annexed in order to demonstrate that the relationship was consensual.

Learned AGA opposes the prayer made in the writ petition.

The contention that relationship was consensual is at best a defence on part of the petitioner, which is not required to be examined at the threshold. Since prima facie allegations with regard to commissioning of cognizable offence are clearly made, we would not be justified in embarking upon an exercise to hold mini-trial or to examine the correctness of the allegations made.

In view of the above observations, the prayer made to quash the first information report is, therefore, declined, and the writ petition, accordingly, is dismissed.

It is, however, made clear that petitioner shall be at liberty to pursue appropriate remedy under the Code of Criminal Procedure, and any observation made herein shall not prejudice the case of the petitioner in such proceedings.

Order Date :- 1.12.2023

Anil