

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 15659 of 2023

Petitioner :- Aditya Pandey

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

Counsel for Petitioner :- Hari Narayan Singh

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Shri H.N. Singh, learned counsel for the petitioner, Shri Ratan Singh, learned A.G.A for the State-respondents, and perused the record.

2. The relief sought in this petition is for quashing of the impugned First Information Report dated 12.9.2023, registered as Case Crime No.0562 of 2023, under Sections 376, 323 IPC, Police Station- Ramgarhtal, District Gorakhpur. Further prayer has been made not to arrest the petitioner in the aforesaid case.

3. Submission of learned counsel for the petitioner is that even as per FIR, the informant was willingly living with the petitioner for about six months, and she had now concocted the entire story, whereas she had taken money from the petitioner on several occasions, and this false FIR has been lodged as she was demanding Rs.5 lacs from the petitioner. Attention was also drawn about the missing report lodged by the husband of the informant on 11.3.2023, as such the impugned FIR is liable to be quashed.

4. *Per contra*, learned A.G.A. submits that in the statement recorded under section 164 Cr.P.C. the informant has supported the prosecution version, therefore, cognizable offence is made out.

5. On perusal 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