

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 15715 of 2023

Petitioner :- Pushpa Singh And 2 Others

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

Counsel for Petitioner :- Shahzad Alam, Gulhuma

Counsel for Respondent :- G.A., Vipin Kumar Kushwaha

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Heard Shri Shahzad Alam, learned counsel for the petitioners, Shri G.P. 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 15.9.2023, registered as Case Crime No.0482 of 2023, under Sections 406, 420, 504, 506 IPC, Police Station- Naubasta, District Kanpur Nagar. Further prayer has been made not to arrest the petitioners in the aforesaid case.

3. Submission of learned counsel for the petitioners is that the petitioners have been falsely implicated in the present case. They have no connection whatsoever with the offence as alleged. All the allegations are against the co-accused Gopal Singh Bhadauriya and any transaction of money, if any, had taken place between them regarding which a complaint under section 138 of NI Act was also filed against the informant herein in the year 2021, which was dismissed and the revision against which was filed and the matter was remanded back. It is, therefore, clear that the implication in the present case at belated stage by lodging the impugned FIR is malicious in nature, as such the impugned FIR is liable to be quashed.

4. *Per contra*, learned A.G.A. submits that from perusal of the record reflects that the false joining letter was given and the petitioners have also been specifically named in the FIR, and that the joining was not permitted, and on inquiry it was found to be forged, therefore, cognizable offence is made out.

5. *Prima-facie*, on plain reading of the contents of the impugned FIR and perusal of the record, we find that the commission of a

cognizable offence is made out. All the arguments being raised by learned counsel for the petitioners is nothing but a defence of the petitioners that cannot be considered for the purpose of quashing of the impugned FIR. The petitioners have also failed to bring their 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 :- 1.11.2023

Anil K. Sharma