

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 15909 of 2023

Petitioner :- Sheelu Shukla @ Om Mani Shukla

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

Counsel for Petitioner :- Anjeet Singh

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Shri Anjeet Singh, learned counsel for the petitioner, Shri G.P. Singh, learned AGA for the State respondents and perused the records.

2. This writ petition has been filed for quashing the impugned First Information Report dated 21.08.2023, registered as Case Crime No. 174 of 2023, under Sections 380, 511, 506 IPC and Section 3/25 Arms Act, 1959, Police Station Malwan, District Fatehpur. Further prayer has been made not to arrest the petitioner pursuant to impugned FIR.

3. Submission of the learned counsel for the petitioner is that the present criminal prosecution has been lodged with *mala fide* intention only to harass the petitioner. It is further submitted that the petitioner was not arrested on the spot. It is next submitted that prior to this incident the petitioner had filed an application under Section 156(3) Cr.P.C. before the court below on 11.01.2021, and therefore, the present criminal prosecution has been lodged as a counter blast and the same is liable to be quashed.

4. *Per contra*, learned AGA pointed out that co-accused Rohit Shukla, arrested on the spot has taken the name of the petitioner, who ran away from the spot. It is further pointed out that against co-accused Rohit Shukla chargesheet has already been submitted. Learned AGA next submitted that petitioner is not co-operating in the investigation and chargesheet cannot be quashed in part, therefore, writ petition is liable to be dismissed.

5. We find substance in the argument of learned AGA.

6. Perusal of the impugned first information report prima facie

reveals commission of cognizable offence. 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.

7. The writ petition is devoid of merit and is accordingly dismissed.

Order Date :- 30.10.2023

Nitendra