

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 15957 of 2023

Petitioner :- Gyanwati And 6 Others

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

Counsel for Petitioner :- Abhay Mishra

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Shri Abhay Mishra, 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 12.9.2023, registered as Case Crime No.0319 of 2023, under Sections 147, 148, 149, 452, 341, 323, 354B, 307, 395 & 506 of IPC, Police Station- Bhojpur, District Moradabad. Further prayer has been made not to arrest the petitioners in the aforesaid case.

3. By drawing attention to the earlier FIR, learned counsel for the petitioners submits that the impugned FIR has been lodged as a counterblast case in respect of the same incident dated 8.9.2023, and there is a delay of four days in lodging the same.

4. *Per contra*, learned A.G.A. submits that regarding the same incident dated 8.9.2023, there is a cross version, and as such it is clear that the incident has taken place, which discloses cognizable offence.

5. *Prima-facie*, on plain reading of the contents of the impugned FIR, we find that the commission of a cognizable offence is made out. The arguments being raised by learned counsel for the petitioners is nothing but a defence 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 :- 18.10.2023

Anil K. Sharma