

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 16447 of 2023

Petitioner :- Devi Kant Sharma And Another

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

Counsel for Petitioner :- Ray Sahab Yadav

Counsel for Respondent :- G.A., Pawan Kumar Shukla

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Heard Shri Ray Sahab Yadav, learned counsel for the petitioners, Shri Pawan Kumar Shukla, learned counsel appearing for the informant and Shri Virendra Kumar Pal, learned A.G.A. appearing for the State respondents.

2. The relief sought in this petition is for quashing of the First Information Report dated 09.9.2023 registered as Case Crime No. 0139 of 2023, under Sections 147, 302, 201, 120B, 352, 504, 506 IPC, P.S. Khiri, District Prayagraj. Further prayer has been made not to arrest the petitioner in the aforesaid case.

3. Submission of learned counsel for the petitioners is that the petitioners have been falsely implicated with ulterior motive. There is no evidence whatsoever in support of the prosecution case. After his first movement admittedly, the deceased has returned and subsequently it is being alleged that an information was received on mobile phone that he has been murdered and his dead body was found near Tones river near 'Naari Baari'. Submission is that it is a case of false implication and impugned FIR is liable to be quashed.

4. Per contra, learned counsel appearing for the informant as well

as learned A.G.A. for the State submits that heinous offence of murder has taken place and dead body has been recovered.

5. From perusal of the contents of the impugned First Information Report and the documents available on record, at the first instance, we find that a cognizable offence is made out against the petitioners.

6. In such view of the matter, at this stage, no interference under Article 226 of the Constitution of India is made out.

7. 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.

8. Therefore, the writ petition is dismissed.

Order Date :- 30.10.2023

A. Tripathi