

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 16073 of 2023

Petitioner :- Md. Saif And 6 Others

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

Counsel for Petitioner :- Aditya Upadhyay, Ambrish Pandey, Rudra Dutt Tiwari

Counsel for Respondent :- G.A., Prashant Sharma

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Heard Shri Ambrish Pandey, learned counsel for the petitioners, Shri Prashant Sharma, learned counsel for the informant, 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 21.9.2023, registered as Case Crime No.0531 of 2023, under Sections 498-A, 323, 354, 504, 506 IPC and 3/4 of Dowry Prohibition Act and section 4 of the Muslim Women (Protection of Rights on Marriage) Act, Police Station-Amroha Nagar, District Amroha. 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 marriage had taken place on 1.1.2023 only, and within few months of marriage, the present FIR has been lodged with malafide intention by implicating the entire family on false allegation. It is also submitted that there was false allegation and no such demand of dowry was made, and there is no medical examination report in the present case, as such the impugned FIR is liable to be quashed.

4. *Per contra*, learned counsel for the informant submits that a divorce petition filed by the husband is pending adjudication. The allegations are serious in nature and dispute has arisen within a short period of marriage, and as such a cognizable offence is made out.

5. Learned A.G.A. also submits that the informant has supported the prosecution version in her statement recorded under sections

161 & 164 Cr.P.C., and sections 376, 511 IPC were added during the course of the investigation, and as such a cognizable offence is made out.

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 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 :- 27.10.2023

Anil K. Sharma