

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 16208 of 2023

Petitioner :- Mamta And 2 Others

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

Counsel for Petitioner :- Krishna Kant Yadav

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Shri Krishna Kant Yadav, learned counsel for the petitioners and Shri Ratan Singh, learned AGA and perused the record.

2. The present writ petition has been preferred with the prayer to quash the impugned First Information Report dated 12.09.2023 registered as Case Crime No. 316 of 2023, under Sections 409 IPC, P.S. Junawai, District Sambhal, and for a direction to the respondents not to arrest the petitioners in pursuance of impugned First Information Report.

3. At the very outset, learned counsel for the petitioners submits that by mistake name of petitioner no. 2-Omveer Singh were included in the present petition as counsel for the petitioners was not aware about filing of earlier petition. We find that there may be a mistake on part of counsel for the petitioner for filing present petition on behalf of petitioner no. 2-Omveer Singh. However, we find that petitioner no. 2 was quite aware about this fact that second petition is being filed on his behalf and earlier petition has already been dismissed by this Court vide order dated 05.10.2023 on merits.

4. The said order dated 05.10.2023 passed in Criminal Misc. Writ Petition No. 15630 of 2023 (Omveer vs. State of U.P. and 2 others) is quoted as under:

"1. Heard learned counsel for the petitioner and learned A.G.A. for the State.

2. The instant writ petition seeks quashing of the FIR dated 12.09.2023 giving rise to Case Crime No.0316 of 2023, under Section 409 I.P.C., Police Station- Junavai, District- Sambhal.

3. Upon hearing learned counsel for the parties and upon a perusal of the record, we find that the submissions made on behalf of the petitioner are

his defence, which cannot be looked into while dealing with a writ petition seeking quashing of a first information report.

4. Moreover, the allegations made in the First Information Report clearly disclose commission of cognizable offences and the allegations are serious in nature. Therefore, prayer of the petitioners to quash the First Information Report is completely misconceived and is rejected.

5. The writ petition is therefore dismissed, without prejudice to the right of the petitioners to apply for bail/anticipatory bail."

5. Taking lenient view in the matter although we are not satisfied with the explanation as offered in so far as filing of the present petition on behalf of petitioner no. 2 is concerned, no action is being taken. However, this petition on his behalf stands dismissed as not maintainable.

6. On perusal of the record of this present petition and the above quoted order, we are not persuaded to take a different view of the matter. Accordingly, this petition is also stand dismissed on the same terms.

Order Date :- 13.10.2023

Ujjawal