

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 16277 of 2023

Petitioner :- Vishnu Yadav

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

Counsel for Petitioner :- Vivek Kumar Singh

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

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Sri Vivek Kumar Singh, learned counsel for the petitioner, Sri Devendra Kumar Shukla, learned counsel for the informant and Sri G.P. Singh, learned A.G.A for the State respondents.

2. The relief sought in this petition is for quashing of the F.I.R. dated 26.12.2020, registered as Case Crime No. 363 of 2020, under Sections 304 IPC, Police Station Mariyahu, District Jaunpur. Further prayer has been made not to arrest the petitioner in the aforesaid case.

3. Submission of learned counsel for the petitioner is that initially an FIR was lodged under Section 302 IPC however, by drawing attention towards page 57 of the paper book, the same was converted into Section 304 IPC. It is submitted that the investigation up till now reflects that the petitioner is not involved and the deceased has died his own death due to fever and therefore, the present FIR has been lodged with malafide intention after five months on concocted facts.

4. Per contra, learned counsel for the informant has opposed the prayer for quashing of the FIR, which discloses cognizable offence.

5. We find that in the background as discussed above, it is clear that unnatural death has taken place and investigation report towards investigation in respect of offence under Section 304 IPC is yet to be submitted.

6. Thus, 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 present present is dismissed.

Order Date :- 2.11.2023

Ujjawal