

Court No. - 43

Case :- CRIMINAL MISC. WRIT PETITION No. - 16532 of 2023

Petitioner :- Yunus And Another

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

Counsel for Petitioner :- Ranjeet Asthana

Counsel for Respondent :- G.A.

Hon'ble Anjani Kumar Mishra,J.

Hon'ble Vivek Kumar Singh,J.

1. Heard learned counsel for the petitioners at length and learned A.G.A. for the State.

2. The instant writ petition seeks quashing of the FIR dated 26.09.2023 giving rise to Case Crime No.0124 of 2023, under Sections 420, 467, 468 & 471 I.P.C., Police Station- Phugana, District- Mazaffer Nagar.

3. The contention of learned counsel for the petitioners is that petitioner has furnished a forged High School mark-sheet and on that basis obtained a fair price shop licence. To controvert the allegations, learned counsel for the petitioners has placed reliance on paragraph 4 of the writ petition which reads as follows:-

"That the wife of the petitioner no.1 is the president of Rahim Sahayata Samuh and participated in a selection of fair price shop of village jogiakhera conducted in the year 2021 wherein she was selected and appointed as fair price shop dealer and submitted is her mark-sheet bearing roll Number 12055 from Mukt Vidhyalay Shiksha Prishad Hariyana but due to village party bandi some one playing roll of false implication of the petitioner no.2 in this regard an explanation was also given against the so cause notice issued by S.D.M. Budhana on 16.09.2021 the petitioner no.2 has submitted detail reply on 20.09.2021 before the S.D.M. Budhana along with affidavit. A Photo Copy of the so cause notice of the S.D.M. dated 16.09.2021 and reply of the petitioner no.2 dated 20.09.2021 supported with affidavit is being collectively filed herewith marked as Annexure no.2 to the writ petition."

4. While the Court was dictating this order, learned counsel for the petitioner now places reliance on paragraph 6 of the writ petition which reads as follows:

"That the S.D.M. Budhana has canceled the license of the petitioner on the basis of false mark-sheet of High School bearing roll no. 213428 of U.P."

Board Allahabad in fact petitioner no.2 was never study in High School of U.P. Board School namely Janhit Inter college Chilaura Meerut and admittedly she is submitted her High School mark sheet was obtain by her in Mukht Vidhyalay Shiksha Prishad Hariyana the S.D.M. Budhana is not making any enquiry upon the reply of the petitioner no.2 and ex party impugned order passed on 28.09.2021 by which license of the petitioner fair price shop was canceled. In the mean time during pendency of the writ petition Shamim S/o Shamshad after more than two year filed a complaint before the S.S.P. Muzaffanagar upon a simple complaint S.S.P. Muzaffanagar directed to C.O. Phugna enquire the matter and do necessary action. A copy of the complaint of the Shamim S/o Shamshad dated 16.09.2023 is being filed herewith marked as Annexure no.4 to the writ petition."

5. The denial contained in paragraph 4 in this petition that the mark-sheet furnished by the petitioner was forged, even if accepted, is the defence of the petitioners which cannot be looked into while dealing with a writ petition seeking quashing of a first information report.

6. The Court is not required to ascertain as to whether the allegations in the first information report are correct or false. The only requirement for the Writ Court is to determine as to whether, the allegations in the FIR accepting every allegation to be true contain the ingredients of a cognizable offence.

7. It may be noted that the allegations in the first information report contain the ingredients of a cognizable offence. Such an FIR cannot be quashed.

8. Accordingly, the writ petition fails and is dismissed.

Order Date :- 6.11.2023

Aditya Tripathi