

Court No. - 46

Case :- CRIMINAL MISC. WRIT PETITION No. - 18138 of 2023

Petitioner :- Utkarsh Gupta

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

Counsel for Petitioner :- Hridesh Batra,Himadari Batra,Sr. Advocate

Counsel for Respondent :- G.A.,Subhas Kumar

Hon'ble Ashwani Kumar Mishra,J.

Hon'ble Syed Aftab Husain Rizvi,J.

Heard Shri Anurag Khanna, learned Senior Advocate assisted by Ms.Himadari Batra and Ms.Shivangi Tripathi, learned counsel for the petitioner and Shri Dipesh Dwivedi, learned Advocate holding brief of Shri Subhas Kumar, learned counsel for the informant.

Although prayer made in this writ petition is to quash the First Information Report registered as Case Crime No.0416 of 2023, under Sections 406, 420, 506, 120-B IPC and Section 66 of the Information of Technology Act, 2008, Police Station - Sector-63 Commissionerate, District-Gautam Buddha Nagar, but at the time when the matter is taken up learned counsel for the petitioner confines his relief to grant of protection under section 41-A of Code of Criminal Procedure.

We have perused the the First Information Report, which prima facie discloses commissioning of cognizable offence and, therefore, the prayer made to quash F.I.R. otherwise cannot be entertained in view of the law laid down by the Supreme Court in the case of *State of Telangana Vs. Habib Abdullah Jellani*, (2017) 2 SCC 779 and *Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and Others*, (2021) SCC Online SC 315.

It is, however, provided that in the event provisions of Section 41-A of the Code of Criminal Procedure are attracted in the facts of the case, the authorities shall ensure its compliance.

Subject to observations made above, this petition is consigned to records.

Order Date :- 22.11.2023

LN Tripathi