

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 16750 of 2023

Petitioner :- Gulshan Rai And 7 Others

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

Counsel for Petitioner :- Siddarth Jaiswal

Counsel for Respondent :- G.A.,Mahesh Kumar,Vindeshwari Prasad

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Sri Siddharth Jaiswal, learned counsel for the petitioners, Sri Vindeshwari Prasad, learned counsel appearing for the informant and Sri Vibhav Ojha, learned A.G.A for the State respondents.

2. The relief sought in this petition is for quashing of the F.I.R. dated 7.10.2023 registered as Case Crime No. 371 of 2023 under Sections 498A, 323, 504, 506, 328, 354, 307 IPC and Section 3/4 of D.P. Act, Police Station Kotwali, District Jhansi. Further prayer has been made not to arrest the petitioner in the aforesaid case.

3. Submission of learned counsel for the petitioners is that the marriage had taken place on 27.6.2023 and it is within after about three months and odd present criminal prosecution has been lodged with mala fide intention and in any case entire family members have been implicated in the present case, whereas there appears to be allegations against the husband only and there is no injury in the present case. It is next submitted that the husband has also filed application under Section 9 of Hindu Marriage Act on 13.9.2023 and it is only thereafter present criminal prosecution has been lodged. It is next submitted that the intimation was given before the concerned police station vide representation dated 28.9.2023.

4. Per contra, learned AGA opposed the prayer for quashing of the FIR, which discloses cognizable offence and submits that within extremely short period of marriage the incident had taken place and each and every accused has been assigned role and the victim was caught-hold by several members as indicated in the first information report and she was administered poisonous substance

and she had also suffered knife injuries. It is next submitted that as per instructions there are injuries on the body of the victim and within short period of marriage the incident had taken place, therefore, no interference is warranted in the present case particularly in view of the fact when specific allegations have been levelled against each and every family members. It is next submitted that the medical reflects that the injury was old and could have been caused on the date of incident.

5. Perusal of the impugned first information report prima facie reveals commission of cognizable offence. Therefore, 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.

6. Therefore, the writ petition is dismissed leaving it open for the petitioner to apply before the competent court for anticipatory bail/bail as permissible under law and in accordance with law.

Order Date :- 22.11.2023

Lalit Shukla