

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 16774 of 2023

Petitioner :- Mukesh And 2 Others

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Vidit Narayan Mishra

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Shri V.N. Mishra, learned counsel for the petitioners and Shri Vivek Shukla, learned A.G.A for the State respondents.

2. The relief sought in this petition is for quashing of the F.I.R. dated 15.02.2023, registered as Case Crime No. 91 of 2023, under Sections 323, 308, 504 I.P.C., Police Station Dadri, District Gautam Buddh Nagar. Further prayer has been made not to arrest the petitioners in the aforesaid case.

3. Submission of learned counsel for the petitioners is that the petitioners have been falsely implicated in the present case. There is no independent witness of the incident in question. He submits that according to the FIR, the incident had taken place on 27.01.2023, whereas the FIR was lodged after delay of 17 days on 15.02.2023 and no offence, as alleged in the FIR, is made out.

4. Per contra, learned A.G.A. points out that co-accused Kuldeep has already been arrested and the petitioners are absconding and they are not cooperating in the investigation, therefore, no indulgence is warranted. It is further pointed out that discharge summary annexed at Page No. 35 of the petition, clearly reflects that there are head injury, right and left hand injury and shoulder injury on the body of the informant and he is unable to perform his duties.

5. Perusal of the impugned First Information Report prima facie reveals commission of cognizable offence.

6. 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.

7. The writ petition is **dismissed**.

Order Date :- 9.11.2023

Shafique