Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 17820 of 2023

Petitioner :- Rakesh @ Mangali
Respondent :- State Of U.P. And 2 Others
Counsel for Petitioner :- Sushil Kumar Pandey,Pratima Pandey
Counsel for Respondent :- C.S.C.

Hon'ble Vivek Kumar Birla,J.
Hon'ble Manish Kumar Nigam,J.

1. Heard Sri Sushil Kumar Pandey, learned counsel for the petitioner as well as Sri V.P. Singh, learned A.G.A. for the State respondents.

2. The present writ petition has been preferred with the prayer to quash the impugned First Information Report dated 19.08.2023 registered as Case Crime No. 240 of 2023, under Sections 498-A, 304-B IPC & section 3/4 of D.P. Act, P.S. Barkheda, District Pilibhit and for a direction to the respondents not to arrest the petitioner in pursuance of impugned First Information Report.

3. It has been submitted by learned counsel for the petitioner that petitioner has been falsely implicated in the present case; the impugned F.I.R. has been lodged after a gap of 21 days without any proper explanation of such delay and there are no injuries on the body of the deceased as per post-mortem report. It is further submitted that Viscera has been preserved and report is still awaited. It is next submitted that marriage of son of petitioner namely Keshav Kumar was solemnized on 05.05.2023 with deceased.

4. Learned A.G.A. opposed the prayer for quashing of the FIR, which discloses cognizable offence.

5. From perusal of the record, we find that unnatural death inside the matrimonial house has taken place within a few months of the marriage and cognizable offence is made out.

6. Additionally, we also find that one of the co-accused Babli had approached this Court by filing a writ petition being **Criminal Misc. Writ Petition No. 17550 of 2023 (Babli Vs. State of U.P. and 2 Others),** which was dismissed by a co-ordinate Bench of this Court on 08.11.2023. The said order is quoted as under:

"1. This writ petition has been filed to quash the First

Information Report dated 19.08.2023 registered as Case Crime No.240 of 2023, under Sections 498-A, 304-B I.P.C. & Sections 3/4 D.P. Act, Police Station - Barkheda, District - Pilibhit.

2. We have perused the F.I.R., which contains specific allegation with regard to demand of dowry and subsequent alleged murder of the deceased. The death itself has occurred few months of the marriage of the deceased.

3. What exactly is the role played by the petitioner, is an aspect to be examined during the course of investigation/trial.

4. Since prima-facie allegation with regard to commissioning of cognizable offence is disclosed, the prayer made to quash the F.I.R. cannot be entertained and the present writ petition is, accordingly, dismissed. "

7. In such of the matter, we do not find any good ground to take a different in view in this matter.

8. 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.

9. The writ petition is devoid of merits and is **dismissed.**

O**rder Date :-** 16.11.2023
Vibha

Digitally signed by :-
VIBHA SINGH
High Court of Judicature at Allahabad