

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 17142 of 2023

Petitioner :- Vijay Nishad And Another

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

Counsel for Petitioner :- Amit Kumar

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Sri Radhey Shayam Yadav, holding brief of Sri Amit Kumar, learned counsel for the petitioner and Sri Virendra Kumar 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 16.10.2020, registered as Case Crime No. 937 of 2020, under Section 307 IPC, Police Station Nawabganj, District Prayagraj. Further prayer has been made not to arrest the petitioner in the aforesaid case.

3. Submission of the learned counsel for the petitioner is that the petitioner has been falsely implicated and no offence is made out against the petitioner. It is next submitted that it is a case of no injury and no one has suffered injury and it is a case of false prosecution. It is further submitted that the respondent no. 3 is a notorious person and has falsely implicated the petitioner herein.

4. Learned AGA opposed the prayer for quashing of the FIR, which discloses cognizable offence. He pointed out that one of the co-accused Suara Master has already been arrested and that several rounds of firing had taken place and as such, a cognizable offence is made out.

5. Perusal of the impugned first information report prima facie reveals commission of cognizable offence. The arguments advanced by the learned counsel for the petitioner is nothing but a defence, which cannot be considered for the purpose of quashing the FIR.

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. Therefore, the writ petition is dismissed.

Order Date :- 22.11.2023

Abhishek