

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 17270 of 2023

Petitioner :- Mohd Yusuf

Respondent :- Union Of India And 2 Others

Counsel for Petitioner :- A Kumar Srivastava, Anand Kumar
Upadhyay, Husnaara Khatoon

Counsel for Respondent :- A.S.G.I.

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Heard Sri Arvind Kumar Srivastava, learned counsel for the petitioner, Sri Shashank Singh, learned counsel appearing on behalf of all the respondents including Union of India.

2. Submission of learned counsel for the petitioner is that petitioner has been falsely implicated in the present case and he is the proprietor of one firm namely Bharat Steel Ramakant Nagar Colony, Varanasi. He regularly purchased scrap from the railway and deposits the amounts without any delay. He further submits that in the present case he has been falsely implicated by lodging an F.I.R. alleging that 1405 Kg EM Pad and 295 Kg different scrap iron valuable about 37,500/- Rs. was loaded in excess in the vehicle of the petitioner's firm. Submission is that no offence is made out against the petitioner.

3. Per contra, learned counsel for the respondents pointed out that one Afzal, who is also an accused in the present case has clearly accepted this fact that unsold scrap was also loaded in the vehicle and he also points out that not only the private persons but three railway employees have also been named in the F.I.R. and cognizable offence is made out.

4. From perusal of the record, we find that the allegations leveled against the petitioner are of serious nature and a cognizable offence is made out. 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.

5. Present petition is accordingly **dismissed**.

Order Date :- 3.11.2023

Vibha