

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 17215 of 2023

Petitioner :- Shivam @ Shivam Shoes @ Deepanshu Sharma

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

Counsel for Petitioner :- Santosh Kumar Mishra, Aishwarya Pratap Singh

Counsel for Respondent :- G.A., Deepak Rana, Rahul Kumar Pandey

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Supplementary affidavit filed today is taken on record.
2. Heard Sri Aishwarya Pratap Singh, learned counsel for the petitioner, learned A.G.A. for the State and perused the record and Sri Rahul Kumar Pandey, learned counsel for the informant.
3. This writ petition has been filed Seeking quashing of the first information report dated 20.9.2023, in Case Crime no. 840 of 2023, under Sections 376, 506 IPC, P.S. Kavi Nagar, District Ghaziabad.
4. The contention of the learned counsel for the petitioners is that both the informant and the petitioner both are major and as per marks statement-cum-certificate (annexed with supplementary affidavit), the date of birth of the petitioner no. 1-Shivam @ Shivam Shoes @ Deepanshu Sharma is 25.6.2004 and as per Aadhar Card, the age of the respondent no. 4-Priyanka Khanna (informant) is 6.12.2004 and she has come forward to file joint affidavit in the present petition in the shape of supplementary affidavit filed today in Court, as such no offence as alleged in the FIR is made out and that no such offence was ever committed and the first information report was lodged under pressure.
5. Learned counsel for the informant also admits the aforesaid fact and supports the petitioner's case.
6. Learned AGA has opposed the prayer.
7. Be that as it may, the writ petition is disposed off with a direction to the respondent no. 4-Priyanka Khanna (informant) to appear before the Chief Judicial Magistrate concerned for recording her statement under Section 164 of Cr.P.C., on or before 22.12.2023. In the event, respondent no. 4-Priyanka Khanna (informant) appears before the Chief Judicial

Magistrate concerned within the stipulated period, the Chief Judicial Magistrate concerned shall record her statement under Section 164 Cr.P.C. in further two weeks and thereafter the Investigating Officer shall proceed in accordance with law.

8. For a period of two months, the respondents are restrained to arrest the petitioners pursuant to first information report dated 20.9.2023, in Case Crime no. 840 of 2023, under Sections 376, 506 IPC, P.S. Kavi Nagar, District Ghaziabad.

Order Date :- 22.11.2023

Abhishek