

Court No. - 43

Case :- CRIMINAL MISC. WRIT PETITION No. - 17957 of 2023

Petitioner :- Sippu Rao @ Abhishek And 4 Others

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

Counsel for Petitioner :- Rahul Kumar Gupta, Subhash Chandra

Counsel for Respondent :- G.A.

Hon'ble Anjani Kumar Mishra, J.

Hon'ble Arun Kumar Singh Deshwal, J.

1. Heard learned counsel for the petitioner, learned counsel for the first informant and learned A.G.A. for the State.
2. The instant writ petition seeks quashing of the FIR dated 24.08.2023 giving rise to Case Crime No.0739 of 2023, under Sections 147, 323, 504, 506, 352 I.P.C., Police Station- Kasia, District- Kushinagar.
3. Learned counsel for the petitioner states that regarding the same incident an FIR was also lodged at the instance of the petitioners although it is subsequent in time. However, the place and time of the incident is not in dispute in either of these FIRs.
4. Since both the parties have filed an FIR, it cannot be said that either of the FIR is completely fabricated. The presumption in such a situation that some incident had infact taken place. It is not open for the Writ Court to decide as to who was the aggressor, which would necessarily be revealed during investigation.
5. However, since the incident had admittedly occurred and the allegations made in the First Information Report clearly disclose commission of cognizable offences and the allegations are serious in nature. Therefore, prayer of the petitioner to quash the First Information Report is completely misconceived and is rejected.
6. The writ petition is therefore dismissed, without prejudice to the right of the petitioners to apply for bail/anticipatory bail.

Order Date :- 20.11.2023

Himanshu