

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 17967 of 2023

Petitioner :- Aftab And 4 Others

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

Counsel for Petitioner :- Rama Shankar Mishra, Ramendra Kumar Tripathi

Counsel for Respondent :- G.A., Braham Singh

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Heard Shri A.R. Siddiqui, who has filed vakalatnama on behalf of petitioners along with Shri Gaurav Tiwari in the present case, along with supplementary affidavit, which are taken on record, Shri Brahm Singh, learned counsel for the informant, Shri G.P. Singh, learned A.G.A for the State-respondents, and perused the record.

2. The relief sought in this petition is for quashing of the impugned First Information Report dated 26.8.2023, registered as Case Crime No.357 of 2023, under Sections 376, 323, 506 IPC and 3/4 Muslim Women (Protection of Rights on Marriage) Act, 2019, Police Station- Amroha Dehat, District Amroha. Further prayer has been made not to arrest the petitioner in the aforesaid case.

3. Submission of learned counsel for the petitioners is that the present criminal prosecution has been lodged after much delay by falsely implicating the entire family.

4. Learned counsel for the informant submits that the offence is categorically made out on bare reading of the First Information Report. Admittedly, the husband of the informant had left for Saudi Arabia after two months of the marriage as per allegation which is not in dispute and thereafter the victim has given birth to a female child and subsequently it is due to the harassment and coercion, the husband has also given divorce on phone, and as such the cognizable offence is made out. Further submits that the anticipatory bail application of the accused Aftab was rejected by the court below as well as by this Court and the ground of separate living was not taken.

5. *Per contra*, learned A.G.A. on instructions submits that the petitioner no.2- Fasari (mother-in-law) and petitioner no.3- Hadi Hasan (father-in-law) have been exonerated in the present case, and no ground for interference is made out in the present case.

6. *Prima-facie*, on plain reading of the contents of the impugned FIR, we find that the commission of a cognizable offence is made out. The arguments being raised by learned counsel for the petitioners is nothing but a defence of the petitioners that cannot be considered for the purpose of quashing of the impugned FIR. Therefore, the extra-ordinary power vests with this Court cannot be invoked in the facts-circumstances of the case.

7. The writ petition is devoid of merits, and is accordingly, **dismissed**, at this stage.

Order Date :- 28.11.2023

Anil K. Sharma