

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 17457 of 2023

Petitioner :- Anees

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

Counsel for Petitioner :- Saher Naqvi, Guncha Shahid

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Heard Sri Saher Naqvi, learned counsel for the petitioner and learned AGA for the State.
2. The present writ petition has been preferred with the prayer to quash the impugned First Information Report dated 02.10.2023 registered as Case Crime No. 276 of 2023, under Sections 307, 34 IPC and 3/25 of Arms Act, Section 13 of Gambling Act and 4/5 of Explosive Substance Act, P.S. Kadadham, District Kaushambi, and for a direction to the respondents not to arrest the petitioners in pursuance of impugned First Information Report.
3. It is informed by learned counsel for the petitioners that co-accused persons have filed Criminal Misc. Writ Petition No. 16345 of 2023 (Sita Ram Pal vs. State of U.P. and 3 others) and vide order dated 17.10.2023 co-ordinate Bench of this Court has dismissed the writ petition.
4. The said order dated 17.10.2023 passed in Criminal Misc. Writ Petition No. 16345 of 2023 (Sita Ram Pal vs. State of U.P. and 3 others) is quoted as under:

"1. Heard Shri Dinesh Kumar Maurya, learned counsel for the petitioner, Shri Bhaskar Srivastava, 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 2.10.2023, registered as Case Crime No.276 of 2023, under Sections 307, 34 IPC and 3/25 of Arms Act, section 13 of Gambling Act and 4/5 of Explosive Substance Act, Police Station- Kadadham, District Kaushambi. Further prayer has been made not to arrest the petitioner in the aforesaid case.

3. Submission of learned counsel for the petitioner is that the petitioner has

not committed any offence, he was not present on the spot. The co-accused Shoeb arrested on the spot has falsely implicated the petitioner due to political rivalry, as such the impugned FIR is liable to be quashed.

4. Per contra, learned A.G.A. submits that the petitioner has criminal history of one case of the year 2014, and in any case, the cognizable offence is made out, and the person arrested on the spot has specifically named the petitioner. The huge quantity of recovery was also made from the person arrested on the spot, therefore, cognizable offence is made out.

5. Prima-facie, on plain reading of the contents of the impugned FIR, we find that the commission of a cognizable offence is made out. All the arguments being raised by learned counsel for the petitioner is nothing but a defence of the petitioner that cannot be considered for the purpose of quashing of the impugned FIR. The petitioner has also failed to bring his case within the parameters of State of Haryana and others Vs. Bhajan Lal and others, 1992 Supp. (1) SCC 335. Therefore, the extra-ordinary power vests with this Court cannot be invoked in the facts-circumstances of the case.

6. The writ petition is devoid of merits, and is accordingly, dismissed."

5. On perusal of the record, we do not find any good ground to take a different view of the matter.

6. In view of the above, this petition also stands dismissed.

Order Date :- 29.11.2023

Ujjawal