

Court No. - 43

Case :- CRIMINAL MISC. WRIT PETITION No. - 17488 of 2023

Petitioner :- Mushir @ Mushir Ahmad

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

Counsel for Petitioner :- Rajeev Sharma

Counsel for Respondent :- G.A.

Hon'ble Anjani Kumar Mishra,J.

Hon'ble Vivek Kumar Singh,J.

1. Heard learned counsel for the petitioners and learned A.G.A. for the State.
2. The instant writ petition seeks quashing of the FIR dated 08.10.2023 giving rise to Case Crime No.0195 of 2023, under Section 366 I.P.C., Police Station- Nidhauri Kala, District- Etah.
3. The contention of the learned counsel for the petitioners is that the impugned FIR is a second FIR, which has been lodged in District Etah, Police Station Nidhauri Kala on 08.10.2023 regarding the disappearance of a lady and her minor son on 26.09.2023. The petitioner has been nominated as an accused in this FIR.
4. The argument that has been raised at the bar cannot be accepted. It appears that at best some complaint was given in the police station.
5. It is sought to be argued by learned counsel for the petitioners that this complaint was investigated, however, without an FIR having been registered. Such an investigation does not have the sanction of law. Therefore, any report on the basis of such illegal investigation cannot be relied upon by the Court.
6. Learned counsel for the petitioners has not been able to establish that on the earlier complaint some FIR was actually registered.
7. Under the circumstances and since the earlier report did not, prima facie, culminate in an FIR, the FIR impugned cannot be said to be a second FIR.
8. Moreover, the allegations in the impugned FIR contain the ingredients of a cognizable offence. Therefore, also this FIR

cannot be quashed and it can definitely not be quashed on the basis of submissions made that the impugned FIR is a second FIR.

9. In view of what has been stated above, accordingly this writ petition fails and is dismissed.

Order Date :- 8.11.2023

Mayank