

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 17699 of 2023

Petitioner :- Dharmendra Singh @ Pintoo

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

Counsel for Petitioner :- Sanjeev Kumar Tripathy, Sawati Baranwal

Counsel for Respondent :- G.A.

Hon'ble Vivek Kumar Birla, J.

Hon'ble Vinod Diwakar, J.

1. Heard Shri Sanjeev Kumar Tripathy, learned counsel for the petitioner and Shri Rajesh Khare, learned A.G.A for the State respondents.

2. The relief sought in this petition is for quashing of the F.I.R. dated 11.06.2021, registered as Case Crime No. 0202 of 2021, under Section 3(1) UP Gangster and Anti Social Activities (Prevention) Act, 1986, Police Station Gagaha, District Gorakhpur. Further prayer has been made not to arrest the petitioner in the aforesaid case.

3. From a perusal of the cause list of the fresh cases, we find that one Criminal Misc. Writ Petition No.7853 of 2021 is shown as disposed of. On perusal of court records, we find that the aforesaid petition was filed challenging the same case crime no.202 of 2021, under Section 3(1) U.P. Gangster and Anti Social Activities (Prevention) Act, registered at Police Station Gagaha, which this Court dismissed vide order dated 14.09.2021. Albeit, on perusal of the pleadings of the instant petition, it is revealed that the petitioner has stated in paragraph 1 that the instant petition is the first petition against the impugned FIR, but the record suggests that the instant petition is the second petition for the same relief against same FIR.

4. It *ex-facie* appears that the petitioner approached this Court under Article 226 of the Constitution of India with ulterior motives by concealing material facts. Even so, it is sufficient for the Court to dismiss the petition on this ground alone besides the ground of maintainability.

5. On merits as well, the petitioner's counsel failed to satisfy the Court to take a contrary view against an order passed by the Co-ordinate Bench of this Court against the same impugned FIR. Additionally, *prima facie*, the contents of the impugned FIR are forming part of the cognizable offence.

6. Learned counsel for the petitioner submitted that he is not aware of the fact of the earlier writ petition challenging the same impugned case crime number.

7. We have no reason to disbelieve the learned counsel for the petitioner. However, the petitioner has signed the Vakalatnama in the present case, and the deponent is his cousin. Therefore, it is clear that the petitioner and his cousin were aware that the instant petition is the second petition for the same cause against the same FIR. Thus, it can be safely presumed that both were aware of the first petition referred in preceding para 3 and concealed this fact from this Court.

8. Therefore, the present petition is dismissed with a cost of Rs.25,000/- (Rs. Twenty-Five Thousand) upon the petitioner, which the petitioner shall deposit with the Registrar General of this Court within a period of one month from today. On deposit of such cost, it shall be transmitted to the account of '**Allahabad High Court Mediation and Conciliation Centre, Allahabad**' Or '**High Court Legal Services Committee, Allahabad**'. If the petitioner fails to deposit the cost of Rs.25,000/-, the Registrar General of this Court shall inform the District Magistrate, Gorakhpur, for recovery of the said amount as arrears of land revenue, who shall after recovering the said amount from the petitioner, transmit it to the Registrar General of this Court for depositing in the account of '**Allahabad High Court Mediation and conciliation Centre, Allahabad**' Or '**High Court Legal Services Committee, Allahabad**' within a further period of three months.

Order Date :- 22.11.2023

Nitendra