Court No. - 46

Case :- CRIMINAL MISC. WRIT PETITION No. - 18864 of 2023

Petitioner :- Sharwan Kumar Ram @ Sharwan Kumar Gautam And Another
Respondent :- State Of U.P. And 2 Others
Counsel for Petitioner :- Ishwar Kumar Upadhyay
Counsel for Respondent :- G.A.

Hon'ble Ashwani Kumar Mishra,J.
Hon'ble Syed Aftab Husain Rizvi,J.

Although prayer made in this writ petition is to quash the First Information Report registered as Case Crime No.0189 of 2023, under Sections 498, 504, 506 IPC, Police Station - Phephna, District - Ballia, but at the time when the matter is taken up learned counsel for the petitioner confines his relief to grant of protection under section 41-A of Code of Criminal Procedure.

We have perused the the First Information Report, which prima facie discloses commissioning of cognizable offence and, therefore, the prayer made to quash F.I.R. otherwise cannot be entertained in view of the law laid down by the Supreme Court in the case of State of Telangana Vs. Habib Abdullah Jellani, (2017) 2 SCC 779 and Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and Others, (2021) SCC Online SC 315.

It is, however, provided that in the event provisions of Section 41-A of the Code of Criminal Procedure are attracted in the facts of the case, the authorities shall ensure its compliance.

Subject to observations made above, this petition is consigned to records.

Order Date :- 5.12.2023
RA

Digitally signed by :-
RAZIQ ALI
High Court of Judicature at Allahabad