

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 4165 of 2023

Petitioner :- Vaibhav Upadhyay @ Rahul And Another

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Home Civil Secrett. Lko. And Others

Counsel for Petitioner :- Sharad Pathak,Pawan Kumar Pandey

Counsel for Respondent :- G.A.,Ashok Kumar Singh

With

Case :- CRIMINAL MISC. WRIT PETITION No. - 4014 of 2023

Petitioner :- Smt. Leelawati And Others

Respondent :- State Of U.P Thru. Its Prin. Secy. Deptt. Of Home Civil Sectt Lko And Others

Counsel for Petitioner :- Sharad Pathak,Pawan Kumar Pandey

Counsel for Respondent :- G.A.,Ashok Kumar Singh,Syed Raza Mehdi

With

Case :- CRIMINAL MISC. WRIT PETITION No. - 4195 of 2023

Petitioner :- Vaibhav Upadhyay Alias Rahul And Others

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Home, Civil Sectt. Lko. And Others

Counsel for Petitioner :- Pawan Kumar Pandey,Sharad Pathak

Counsel for Respondent :- G.A.,Ashok Kumar Singh

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Narendra Kumar Johari,J.

1. Learned A.G.A. for the State Respondents has produced before this Court instructions dated 20.09.2023 & 19.09.2023 sent by the Sub-Inspector of Police, Police Station- Jalalpur, District- Ambedkar Nagar wherein it has been stated that the investigation has been completed and Charge Sheet No. A202/23 dated 14.08.2023 and Charge Sheet No. A70/2023 dated 02.07.2023 have been prepared and filed in Court on 12.09.2023 and 24.08.2023, respectively.

2. The instructions are kept on record.

3. Learned counsel for the petitioners is out of station and a request has been made on his behalf that the matter has been taken up on some other date.
4. It has also been stated by Sri Shashank Singh that an application for amendment has been filed by the petitioners praying for quashing of the charge sheet.
5. This Court finds that no such application is on record.
6. Even so if such an application for amendment is filed, that would not make this Court bound to allow the amendment as charge sheet has been prepared and credible evidence must have been collected by the Investigating Officer. This Court sitting in limited jurisdiction of quashing of F.I.R. finds that if credible evidence has been collected and charge sheet has been filed in Court, the F.I.R. itself shows cognizable offence to be made out.
7. Learned counsel appearing on behalf of the petitioners says that there are several judgements to the effect that even after filing of charge sheet, the writ petition for quashing of the F.I.R. is maintainable and should be entertained on its merits.
8. Article 226 of the Constitution of India is a discretionary remedy which this Court exercises in the fact and circumstances of each case for doing justice between the parties.
9. Certiorari being a writ which is discretionary in nature cannot be issued as "*a matter of course*".
10. The petitioners had initially come challenging only the F.I.R. saying that no cognizable offence is made out. Now, the charge sheet has been prepared with credible evidence which has been filed in Court.
11. This Court finds no good ground to show interference in the impugned F.I.R.
12. These writ petitions stand **dismissed** in view of the fact that the petitioners have statutory remedy of challenging the charge sheets before the appropriate Court under Section 482 of the Cr.P.C.

Order Date :- 22.11.2023

Darpan Sharma