

Court No. - 9

Case :- CRIMINAL MISC. WRIT PETITION No. - 4375 of 2023

Petitioner :- Satiram And Others

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

Counsel for Petitioner :- Babu Ram

Counsel for Respondent :- G.A.

Hon'ble Rajnish Kumar,J.

Hon'ble Umesh Chandra Sharma,J.

This writ petition has been filed with the prayer to quash the impugned FIR dated 26.03.2023 bearing Case Crime No.0118 of 2023, under Section 147,323, 504, 452 and 308 IPC, Police Station- Tanda, District- Ambedkar Nagar.

Submission of learned counsel for the petitioners is that the petitioners have been falsely implicated in the present case, whereas the petitioners have electricity connection and they are also paying electricity charges. Learned counsel for the petitioners further submits that all the offences are below seven years, therefore, the petitioners are entitled for benefit of provision of Section 41-A of Criminal Procedure Code in view of the judgement of the Supreme Court in the Case of **Satendra Kumar Antil Vs. Central Bureau of Investigation and Another; (2022) 10 SCC 51.**

Learned AGA opposed the prayer but could not dispute the aforesaid facts.

The correctness or otherwise of the allegations made in F.I.R. need not be examined by us in view of the law settled inasmuch as such issues are required to be examined at the stage of investigation. The petitioners shall be at liberty to place all materials in support of their defense before the Investigating Officer.

Since the First Information Report prima facie discloses commissioning of cognizable offence, therefore, it cannot be quashed 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.** Prayer for quashing the F.I.R. is declined.

As the offences alleged in the F.I.R. provide for maximum sentence upto seven years, the provisions of Section 41-A of the Code of Criminal Procedure have to be complied with in view

of **Satendra Kumar Antil Vs. Central Bureau of Investigation and Another; (2022) 10 SCC 51** and the same shall be complied.

The writ petition is, accordingly, disposed of.

Order Date :- 5.6.2023

Ashutosh Pandey