

Court No. - 2

Case :- CRIMINAL MISC. WRIT PETITION No. - 4747 of 2023

Petitioner :- Buddha Prakash @ Shyam Ji Dixit

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

Counsel for Petitioner :- Dinesh Kr. Sharma, Arshad Hafeez Khan

Counsel for Respondent :- G.A.

Hon'ble Rajan Roy, J.

Hon'ble Syed Qamar Hasan Rizvi, J.

1. Supplementary affidavit filed by the petitioner, is taken on record.

2. Heard.

3. The present petition has been filed seeking following reliefs:

"(i) To issue a writ, order or direction in the nature of Certiorari to quash the impugned First Information Report dated 14.05.2023 lodged at Police Station Husainganj, District Lucknow, registered at Case Crime No. 0049/2023, under Sections 406, 504, 506, 120-B, 376 I.P.C. and 3(2)(v) S.C./S.T. Act.

"(ii) To issue a writ, order or direction in the nature of Mandamus commanding and directing the opposite party no.2 not to arrest the petitioner in connection with impugned First Information Report dated 14.05.2023 lodged at Police Station Husainganj, District Lucknow, registered at Case Crime No. 0049/2023, under Sections 406, 504, 506, 120-B, 376 I.P.C. and 3(2)(v) S.C./S.T. Act."

3. The contention of the petitioner's counsel is that on the date and time of incident, the petitioner was in Dehradun and has been falsely implicated in the F.I.R. by the informant.

4. Learned Additional Government Advocate says that there is evidence available with the Police pointing towards the commission of offence on the date and time mentioned in the F.I.R. Moreover, petitioner has another criminal case against him along with co-accused Rajesh Kumar at Police Station Sadar Bazar, District Shahjahanpur in Case Crime No. 755/2022 under Sections 171, 406, 411, 420, 467, 468, 471, 504, 506 I.P.C. Petitioner along with co-accused lured the informant with the false promise of securing an appointment for her husband and committed the offence of rape also.

5. Considering the facts as mentioned in the impugned F.I.R., it cannot be said at this stage that cognizable offence is not made out against the petitioner. Whether petitioner is involved in commission of offence or not, is a matter of investigation.

6. We, accordingly, decline to interfere in the matter but without prejudice the rights of the petitioner to pursue other remedies and in the pending investigation.

(Syed Qamar Hasan Rizvi, J.) (Rajan Roy, J.)

Order Date :- 23.6.2023

Abhishek Gupta