

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 7655 of 2023

Petitioner :- Aftab Ali Khan And Another

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

Counsel for Petitioner :- Kaushal Kishore Tewari

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Narendra Kumar Johari,J.

Heard learned counsel for the petitioners, learned A.G.A. for the State/respondents and perused the record.

This writ petition has been filed by the petitioners with the prayer to quash the impugned F.I.R. dated 06.09.2023, registered as FIR/Case Crime No.544 of 2023, under Sections 223, 224, 511, 120-B, 420, 467, 468, 471 I.P.C., Police Station - Sursa, District - Hardoi.

Learned counsel for the petitioners has pointed out order passed by this Court on 06.10.2023, which is quoted herein below :-

"Heard Shri Kaushal Kishore Tewari, learned counsel for the petitioners, Shri Pavan Kumar Mihsra, learned A.G.A. for the State/respondents and perused the record.

The present writ petition has been filed by the petitioners with the following main prayers :

"(A). Issue a writ, order or direction to the nature of certiorari quashing the impugned F.I.R. dated 06-09-2023 lodged by the opposite party no-3 bearing case crime no.544/2023 u/s - 223/224/511/120-B/420/467/468/471 I.P.C. P.S. Kotwali, District - Sitapur, (contained as Annexure no.1).

(B). Issue writ, order or direction in the nature of mandamus commanding to the opposite parties not to arrest the petitioners in crime no.544/2023 u/s - 223/224/511/120-B/420/467/468/471 I.P.C. P.S. Kotwali, District - Sitapur."

It has been submitted by learned counsel for the petitioners that the petitioners are only constable and have been falsely implicated in the impugned F.I.R. They are just lock-up

Moharrir of the Sessions Court, Sitapur and they were not responsible for summoning the accused Mujib Ahmad from District Jail. It was not their duty to send the accused Mujib Ahmad from District Jail to Sessions Court. Their duty is confined to just lock-up persons who have been sent from District Jail in the Sessions Court lock-up on the day when they are summoned.

Learned A.G.A. shall seek instructions with regard to the responsibility assigned to the petitioners and as to how the accused Mujib Ahmad was allowed by the petitioners to talk to his Advocate in the lock-up when their duty is confined only to ensure that the persons summoned by the Court from the District Jail are placed in lock-up.

List this matter next week, as fresh."

Learned A.G.A. has produced before this Court instructions sent by Inspector, Crime Branch, District Sitapur, wherein it has been stated that during course of investigation it has come out that Head Constable Aftab Ali was appointed for the Lock-up duty and during his duty accused Mujib was found to be sitting outside the lock-up in another room with his counsel. The petitioners duty was to ensure that all the accused remain in the lock-up at all time.

Instructions are kept on record.

This Court has gone through the instructions and also the F.I.R. and finds no good ground to show interference.

Accordingly, the writ petition is hereby **dismissed**.

Order Date :- 4.12.2023

ML/-