

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 8007 of 2023

Petitioner :- Awdhesh Kumar Gaur Alias Pappan Gaur

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

Counsel for Petitioner :- Abdul Alim Khan

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Ajai Kumar Srivastava-I,J.

(1) Heard the learned counsel for the petitioner and the learned A.G.A. who appears for the Opposite party nos.1, 2 & 3 and Shri Iqbal Ahmad, Advocate, who has filed his Power on behalf of the Opposite party no.4.

(2) This petition has been filed by the petitioner for the following main prayer:-

"1) Issue a writ, order or direction in the nature of Certiorari quashing the impugned First Information Report dated 24.09.2023 relating to F.I.R./ Case Crime No.440 of 2023, under Sections 323, 452 & 307 I.P.C. at Police Station Fakharpur, District Bahraich, as contained in Annexure No.1 to the writ petition."

(3) It has been submitted by the learned counsel for the petitioner that the petitioner has been falsely implicated in the impugned F.I.R. due to political rivalry. It has been submitted that if the mother of the informant had been attacked by the petitioner at 03:00 A.M. in the night, he would not have taken her with a delay to the Doctor and that too in a private hospital.

(4) The injuries are simple in nature although seven stitches have been found on the forehead and that is because of falling of the mother of the informant from the stairs.

(5) Shri Iqbal Ahmad, states that if the informant was not at home and there was nobody-else to take care of mother, she would have to wait till the morning only to go to the Hospital/seek Medical help. It has been submitted by the learned counsel for the informant that the petitioner

is an accused in at least six criminal cases.

(6) We also find explanation of the delay in the F.I.R. as it has been stated that at that time, the mother of the informant was also alone at her home and she had been attacked by the petitioner and she had sustained serious injuries, thereafter, she fainted. She was alone in the house, therefore, nobody could help her when she got back to her senses, she went herself to the house of the parental uncle's of the informant and from there she was taken to the hospital. In any case, whatever the petitioner is saying can only be looked into at the time of taking of evidence by the learned Trial Court.

(7) Learned counsel for the petitioner has pointed out the affidavit of the doctor who treated the petitioner but we have gone through the F.I.R. carefully and find also the Medical prescriptions of the doctor concerned and find that one Homeguard had taken the mother of the informant to the hospital and not the informant that corroborates the story as mentioned in the F.I.R. that she was alone at her home at that time and she is 62 years old, she could not have gone to the hospital on her own with an injury which needed at least seven stitches.

(8) We are not concerned with the criminal history of the petitioner and we are only concerned with the story as mentioned in the F.I.R. which discloses a cognizable offence to have been made out.

(9) The writ petition stands ***dismissed***.

Order Date :- 16.10.2023

N.PAL