

Court No. - 9

Case :- CRIMINAL MISC. WRIT PETITION No. - 8293 of 2023

Petitioner :- Mohd. Arshad Ali

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

Counsel for Petitioner :- Israr Ahmad Ansari

Counsel for Respondent :- G.A.

Hon'ble Rajan Roy,J.

Hon'ble Ajai Kumar Srivastava-I,J.

Instructions filed by learned A.G.A. is taken on record.

Heard.

This petition has been filed seeking the following reliefs :-

"(I). To issue a writ, order or direction in the nature of certiorari by quashing the impugned first information report dated 16.08.2023 vide Case Crime No. 0186/2023, under Section 323, 328, 376, 377, 498A, 504 IPC & 3/4 D.P. Act.

"(II). To issue a writ, order or direction in the nature mandamus commanding and directing the opposite party No. 2 & 3 not to arrest the petitioner in the Case Crime No. 0186/2023, under Section 323, 328, 376, 377, 498A, 504 IPC & 3/4 D.P. Act., Police Station - Chowk, District - Lucknow."

Sri Dinesh Singh Rana, learned A.G.A. for the State has instructions to inform the Court that Sections 376, 377 and 328 I.P.C. have been dropped during investigation and charge sheet has been prepared against the petitioner under Sections 323, 498A, 504 and 506 IPC & 3/4 Dowry Prohibition Act, 1961.

In view of the above and after having gone through the contents of F.I.R., we see no reason to interfere in the matter at this stage especially as there is statutory protection under Section 41-A Cr.P.C. where the sentence regarding an offence is of seven or less than seven years, therefore, the police is obliged to extend the benefit of the said provision wherever attracted and no specific direction is required.

If during investigation any other Section is added, then the law will take its own course, meaning thereby, if the

provisions contained in Section 41 or 41-A are not attracted to the said offence/section, then it shall be open for the police to proceed accordingly.

Accordingly, the writ petition is ***disposed of***.

Order Date :- 27.10.2023

A.Dewal