

Court No. - 9

Case :- CRIMINAL MISC. WRIT PETITION No. - 8296 of 2023

Petitioner :- Pradeep Kumar Pandey @ Pradeep Pandey
And Another

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

Counsel for Petitioner :- Pradeep Kumar, Pradeep
Kumar Mishra

Counsel for Respondent :- G.A.

Hon'ble Rajan Roy, J.

Hon'ble Ajai Kumar Srivastava-I, J.

Heard.

This petition has been filed seeking the following reliefs :-

"(i) Issue a writ, order or direction in the nature of certiorari thereby quash the impugned first information report dated 10.10.2023, lodged by opposite party no.4, against petitioners vide case crime no.601/2023, under Sections 409 & 420 I.P.C., Police Station Gomti Nagar, District Lucknow.

(ii) issue a writ, order or direction in the nature of mandamus commanding the opposite parties and directing the opposite parties no.2 and 3 not to arrest or adopt any coercive measures against the petitioners on the basis of the impugned first information report dated 10.10.2023, lodged by opposite party no.4, against petitioners vide case crime no.601/2023, under Sections 409 & 420 I.P.C., Police Station Gomti Nagar, District Lucknow."

The contention of the petitioners' counsel is that, as per the informant's own case, the petitioners, who are its employees, were disengaged in the years 2021 and 2022, as is also evident from the documents annexed as Annexure No. 4 to the petition. Consequent to their disengagement, when the petitioners started demanding certain cheques given by them, this F.I.R. has been lodged. It is also contended that no offence under Section 409 I.P.C. is made out against the petitioners.

Learned A.G.A. has opposed the writ petition by submitting that, on a bare perusal of the F.I.R., it cannot be said that no cognizable offence is made out, therefore, no interference should be made.

We find merit in the submission of the learned A.G.A. as from the perusal of the F.I.R., it cannot be said that no cognizable offence is made out against the petitioners, at least at this stage and factual issues can be seen during the investigation. Whether an offence under Section 409 I.P.C. is made out or not shall be seen during investigation by the Investigating Officer. The petitioners can avail other remedies, such as under Section 438 Cr.P.C., etc. Therefore, we see no reason to interfere in the matter at this stage.

We, accordingly, **dismissed** the petition but without prejudice to the rights of the petitioners in the pending investigation and also other remedies.

Order Date :- 27.10.2023

A.Dewal