

Court No. - 13

Case :- MATTERS UNDER ARTICLE 227 No. - 5522 of 2023

Petitioner :- Hallmark Vypaar Pvt. Ltd. Thru. Its Author.

Signatory Akbal Bahadur Singh

Respondent :- State Of U.P Thru. Prin. Secy. Deptt. Home
Civil Sectr. Lko. And 3 Others

Counsel for Petitioner :- Sudeep Kumar, Anjali Singh, Harshit
Gupta

Counsel for Respondent :- G.A.

Hon'ble Karunesh Singh Pawar, J.

1. Heard Sri Sudeep Kumar, learned counsel for the petitioner and learned A.G.A. for the State-respondent Nos.1 to 3.

2. In view of the proposed order being passed, notices to respondent No.4 is dispensed with.

3. By way of this petition, the petitioner has prayed for the following relief:-

"Wherefore it is most respectfully prayed that this Hon'ble court may very kindly be pleased to quash the Order dated 05.10.2023 passed by Hon'ble Additional Chief Judicial Magistrate-III annexed as ANNEXURE-1 of this petition, together with an criminal Revision dated 16.10.2023. annexed as ANNEXURE-2.

It is further prayed that the respondent no. 1 to 3 may be directed not to proceed for registering the First Information Report on the basis of order dated 05.10.2023 and in case the same is registered then the investigation may be conducted keeping in view the compromise arrived between the parties.

Such other order or direction which this Hon'ble court may deem fit and proper in the facts and circumstances of the case is also passed in favour of the petitioner."

4. This Court on 27.10.2023 has passed the following order:-

"Learned A.G.A. has raised a preliminary objection submitting that F.I.R. in this case is yet to be lodged and the petitioner may be a prospective accused at a later stage, however, at present he has no locus to file a petition under Section 227 of the Constitution of India for quashing of the impugned order.

Learned counsel for the petitioner submits that the petitioner has

arrived at a settlement with the complainant and a report confirming settlement has also been submitted by the police and therefore, the impugned order dated 05.10.2023 by which the concerned court has directed to lodge an F.I.R. against the petitioner is liable to be set aside.

Learned counsel for the petitioner prays for some time to show appropriate case law in support of his contention.

Put up on 02.11.2023 as fresh."

5. It is not disputed between the parties that F.I.R. is yet to be lodged as a consequence to the order passed on an application under Section 156(3) Cr.P.C. and therefore, the petitioner is yet to be arrayed as an accused.

6. Learned counsel for the petitioner submits that after the order was passed under Section 156(3) Cr.P.C., the parties i.e. petitioner and complainant have entered into a settlement. He prays that liberty may be given to him to approach this Court for quashing of the F.I.R., if any, lodged as a consequence to such order passed under Section 156(3) Cr.P.C.

7. *Prima facie* applicant has no locus to maintain this petition. The Full Bench of this Court in the case of ***Father Thomas vs. State of U.P. & Anr.*** reported in **[2011 (1) JIC 533 Allahabad]** has held that prospective accused has no *locus standi* to challenge the direction for investigation of a cognizable case. It has been further held that writ jurisdiction is not available to challenge such an order of the Magistrate. The emphasis is on para 32 and 57 of the judgment.

8. In view of the settled proposition of law, the petition fails and is accordingly dismissed with liberty to the petitioner to approach this Court again on the basis of the compromise so entered between the complainant and the petitioner for quashing of the F.I.R.

Order Date :- 7.11.2023

Saurabh Yadav/-