

Court No. - 13

Case :- MATTERS UNDER ARTICLE 227 No. - 5523 of 2023

Petitioner :- Mohd. Iqbal, Mohd. Taqi and Mohd. Azhar

Respondent :- State Of U.P. Thru.Addl.Chief Secy. Home And Another

Counsel for Petitioner :- R.B.S. Rathaur

Counsel for Respondent :- G.A.

Hon'ble Karunesh Singh Pawar,J.

Heard Mr. R.B.S. Rathaur, learned counsel for petitioners as well as learned Additional Government Advocate for State.

The present petition has been filed to quash the impugned order dated 4.10.2023 passed by Sessions Judge, Lucknow in Crl. Revision No.584 of 2023 Mohd. Iqbal and others versus State of U.P. and others as also order dated 24.8.2023 passed by ACJM-III, Lucknow in Crl. Case No.673 of 2012 State vs. Qamar Jahan and others.

Learned counsel for applicants submits that he does not want to press the petition for petitioner No.1. Accordingly, the petition qua petitioner No.1 is dismissed as not pressed.

Learned counsel for the petitioners submits that the petitioners 2 and 3 have not put in appearance before the learned court below through counsel as has been observed by the court below while passing order dated 24.8.2023. It is submitted that the learned court has wrongly presumed that the accused had knowledge about the case and their counsel is present, however, without seeking bail, they are not putting in appearance and has thus issued non-bailable warrant. It is submitted that the order passed by the court below is patently illegal. In support of his contention, learned counsel has produced the questionnaire before this court which shows that learned counsel for the petitioners 2 and 3 has not filed any vakalatnama in the case in question before the court below.

Learned A.G.A. has opposed the petition.

On due consideration to the questionnaire produced before this court which is taken on record as well as the order sheet of the court below, it appears that the court

below on the wrong assumption that the advocates of the petitioners 2 and 3 are present before it, however, the accused have not sought bail and therefore, under this impression, the non bailable warrant has been issued inadvertently.

In view of the above, the order dated 24.8.2023 (supra) is set aside as regards petitioners 2 and 3 only. The learned court below is at liberty to pass appropriate orders afresh, as per law.

The petition qua petitioners 2 and 3 is disposed of accordingly.

Order Date :- 6.11.2023

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