

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 8330 of 2023

Petitioner :- Santosh Kumar Jaiswal And Others

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

Counsel for Petitioner :- Pankaj Kumar Shukla

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Narendra Kumar Johari,J.

1. Heard learned counsel for the petitioners and learned A.G.A. who appears on behalf of the State Respondents.

2. This petition has been filed with the following main prayers:-

"I. issue a writ, order or direction in the nature of Certiorari thereby quashing the impugned First Information Report dated 01.10.2023 having FIR No. 0866/2023, under section 3(1) U.P. Gangster Act, at Police Station-Kotwali Nagar, District-Gonda, annexed as Annexure No. 1 respectively.

II. issue a writ, order or direction in the nature of Mandamus thereby commanding the opposite parties not to arrest the Petitioners in pursuance of the impugned First Information Report dated 01.10.2023 having FIR No. 0866/2023, under section 3(1) U.P. Gangster Act, at Police Station-Kotwali Nagar, District-Gonda."

3. A supplementary affidavit has been filed by learned counsel for the petitioner today, which is taken on record.

4. It has been submitted by the learned counsel for the petitioners that the petitioners have been falsely implicated in the impugned F.I.R. They have no role to play.

5. It has been submitted that as per the prosecution story as mentioned in the F.I.R., the

opposite party no. 4 derived information during patrolling that the petitioners and other accused persons were members of a gang that was involved in tax evasion.

6. It has also been submitted that the petitioners cannot be said to be gangsters as the definition of gang as given under Section 2(b) relates to offences as mentioned under Section 2 (b) (1) to 2 (b) (15) and tax evasion cannot be said to be one of the offences which is covered under Section 2 (b) (1) to 2 (b) (15).

7. Learned A.G.A. for the State Respondents on the other hand has referred to Chapter XVII of the I.P.C. to say that the offences that the petitioners are accused off in the base cases relates to Chapter XVII of the I.P.C. As such the petitioners are covered under the relevant Section of the U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986.

8. This Court having perused the F.I.R. finds no good ground to show interference in the impugned F.I.R.

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

Order Date :- 3.11.2023

Darpan Sharma