

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 8345 of 2023

Petitioner :- Neeraj And Another

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

Counsel for Petitioner :- Abdul Samad, Syed Mohammad Abid

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra, J.

Hon'ble Mrs. Renu Agarwal, J.

(1) Heard the learned counsel for the petitioners and the learned A.G.A. who appears for the Opposite party nos.1, 2 & 3.

(2) This petition has been filed by the petitioners for the following main prayer:-

"1) to issue a writ, order or direction in the nature of Certiorari to quash the impugned First Information Report lodged by the informant/ Opposite party no.4 vide F.I.R. No.416 of 2023, under Sections 363, 366 I.P.C., at Police Station Khiron, District Raebareli, against the petitioner no.1 (contained as Annexure No.1 to this writ petition.)"

(3) It has been submitted by the learned counsel for the petitioners that the petitioners are both major and have got married out of their own sweet will with each other. It has been submitted that Section 363 I.P.C. has been wrongly imposed by the Investigating Officer against the Petitioner no.1 as the Petitioner no.2 is major as is evident from the High School Marksheet of the Petitioner no.2, a copy of which has been filed as Annexure No.2 to the writ petition.

(4) Learned A.G.A. has produced before this Court the instructions sent by Shri Sudhir Kumar Pandey, Sub-Inspector of Police Station Kheron, District Raeabreli, wherein it has been stated that on the basis of Educational Certificate, the petitioner no.2 was found to be 20 years and 3 months old at the time of the incident and therefore, the Section 363 I.P.C. has been deleted during the course of investigation.

(5) This Court having perused the instructions finds that the Petitioner no.2 has not been produced before the Investigating Officer till date. The Petitioner no.1- Neeraj, shall produce the Petitioner no.2- Astha @ Astha Pal, before the Investigating Officer for recording of her statement under Sections 161 and 164 of the Cr.P.C. **within a week.**

(6) The Investigating Officer shall take an appropriate decision in the matter **within a period of five weeks thereafter.**

(7) For the period of six weeks or till such decision is taken by the Investigating Officer, the Petitioner no.1- Neeraj, shall not be arrested in pursuance of the impugned F.I.R. relating to F.I.R. No.416 of 2023, under Sections 363, 366 I.P.C., at Police Station Khiron, District Raebareli, subject to his full cooperation in the investigation.

(8) The writ petition stands **disposed of.**

Order Date :- 30.10.2023
N.PAL