

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 8454 of 2023

Petitioner :- Azmat Alias Roshan Ali

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

Counsel for Petitioner :- Laxmi Narayan Gupta, Mohd. Usman Ghani Khan, Samreen Irfan

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra, J.

Hon'ble Narendra Kumar Johari, J.

1. Heard learned counsel for the petitioner and learned A.G.A. for the State.

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

"issue a writ, order or direction in the nature of certiorari thereby quashing the impugned first information report lodged by the opposite party no.3 on 1.10.2023 vide F.I.R. No.574 of 2023, under section-376 I.P.C. and Section 3/4 of the Protection of Children from Sexual Offences Act, 2012, at Police Station-Kotwali Colonelganj, District- Gonda, as contained in Annexure No.1 to the writ petition."

3. It has been submitted by learned counsel for the petitioner that the impugned F.I.R. is completely false and it mentions the age of the alleged victim to be 16 years, whereas her Voter ID card issued by the Election Commission of India shows her Date of Birth of 2002 and she is more than 18 years of age.

4. It has been submitted that the petitioner was engaged to be married to the victim in 2022, but he received a call from the boyfriend of the victim saying that he could not marry the victim as they were already having an affair and in case he marries the victim, then he will be done to death. When the petitioner told his father about the phone call made by the boyfriend of the victim, they approached the complainant- respondent no.4. The respondent no.4 demanded Rs.3 lakhs and in case the petitioner did not give him the amount, he would implicate him in a false case.

5. A report regarding the same incident of blackmailing has been made by the petitioner's father on 25.09.2023 to the Station House Officer, Colonelganj, Lucknow. A copy of such letter dated 25.09.2023 has been filed as annexure-6 to the petition.

6. Learned A.G.A. has informed this Court that the letter has been sent to the Station House Officer, Colonelganj, Lucknow, whereas Colonelganj is in District Gonda. Moreover, there is no proof attached of the said letter being sent either by post, or having been got received by hand at the Thana concerned.

7. It has also been submitted by learned A.G.A. that the entire story that has been cooked up by the petitioner appears to be false. Moreover, it has been submitted that the F.I.R. shows commission of offence of cognizable offence under Section 376 of the I.P.C., even if not under Section 3/4 of the P.O.C.S.O. Act.

8. This Court is of the considered opinion that the F.I.R. discloses cognizable offence by the petitioner, hence, no interference is called for by this Court in its extraordinary power under Article 226 of the Constitution of India for quashing of the F.I.R. or for grant of any interim relief to the petitioner.

9. As to whether the petitioner has been blackmailed can only be seen by the Trial Court during the evaluation of evidence.

10. The writ petition stands ***dismissed***.

Order Date :- 2.11.2023

Rahul