

Court No. - 13

Case :- CRIMINAL MISC. WRIT PETITION No. - 8659 of 2023

Petitioner :- Ram Shankar Dwivedi And 3 Others

Respondent :- State Of U.P. Thru. Prin. Secy. Home Govt. U.P. Lko. And Another

Counsel for Petitioner :- Ajay Pratap Singh

Counsel for Respondent :- G.A.

Hon'ble Karunesh Singh Pawar,J.

Heard learned counsel for the petitioners and learned AGA for the State.

Learned AGA has raised a preliminary objection submitting that writ petition against the summoning order passed by the magistrate is not maintainable. He further submits that appropriate remedy for the petitioner is to file a petition under Section 482 Cr.P.C. In support of his contention, he has relied on the judgment of the Supreme Court passed in the case of "*Radhey Shyam v. Chhabi Nath, (2015) 5 SCC 423*". Emphasis is on para 25 of the judgment.

Learned counsel for the petitioners at this stage submits that he may be permitted to withdraw the petition with liberty to file a fresh petition.

Accordingly, the petition is dismissed with liberty as prayed for.

Office is directed to return certified copies of the judgments as well as other documents filed along with the petition to learned counsel for the petitioners.

Order Date :- 8.11.2023

R.C.