

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 8922 of 2023

Petitioner :- Ram Niwas Alias Niwas And Another

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

Counsel for Petitioner :- Santosh Kumar Dwivedi, Nitin Verma

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra, J.

Hon'ble Narendra Kumar Johari, J.

Heard learned counsel for the petitioners and learned A.G.A. for the State.

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

"issue a writ, order or direction in the nature of certiorari quashing the impugned First Information Report dated 26.10.2023 lodged by opposite party No.4 in FIR/ Case Crime No.247/2023, under Sections 323, 506, 452, 427, 354 IPC and Section 7/8 Protection of Children from Sexual Offences Act, Police Station Hardattnagar Girant, District Shrawasti (so far it relates with the petitioners), as contained in Annexure No.1 to the writ petition."

Learned counsel for the petitioners submits that all the Sections invoked against petitioners carry a punishment upto seven years and, therefore, the petitioners are entitled for the benefit of the judgement rendered by Hon'ble Supreme Court in the case of *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273.

This Court has gone through the instructions sent by the Sub Inspector, Police Station Hardattnagar Girant, District Shrawasti, and also the F.I.R., it appears that main accused were caught red-handed by the Police for trying to molest 14 years old daughter of the complainant

The F.I.R. does not show any specific role having been played by the petitioners.

This petition is ***dispose of*** with a direction to the

police authorities concerned to follow the mandate of Section 41A Cr.P.C. and also the directions issued by the Hon'ble Supreme Court in the case of ***Arnesh Kumar Vs. State of Bihar, reported in (2014) 8 SCC 273.***

Order Date :- 22.11.2023

Rahul