

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 9010 of 2023

Petitioner :- Jakir Ali

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

Counsel for Petitioner :- Manuvendra Singh, Pawan Kumar Tiwari

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra, J.

Hon'ble Narendra Kumar Johari, J.

Heard learned counsel for the petitioner and learned AGA for the State-respondents.

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

"i. Issue a writ order or direction in the nature of certiorari to quash the impugned FIR dated 02.10.2023 lodged by the opposite party No.4.

ii. Issue a writ order or direction in the nature of mandamus directing the opposite parties, not to arrest the petitioner in pursuance of the impugned First Information Report."

It has been submitted by learned counsel for the petitioner that it is admitted case of the victim that she had in a consensual sexual relationship with the petitioner. Somehow the said relationship got soured. As a result of annoyance, the impugned FIR has been lodged. It has also been stated that the Hon'ble Supreme Court in the case of **Sonu @ Subhash Kumar Vs. State of U.P. and another; Criminal Appeal No.233 of 2021** has held on 1st March, 2021 that if there is consensual sexual relationship between two major persons, the allegation of rape should not be entertained.

This Court has gone through Annexure No.3, which is a copy of the judgement rendered by the Hon'ble Supreme Court, which is annexed with the writ petition, wherein the an appeal had been filed against the order passed by this Court dismissing an application U/s 482 Cr.P.C. for quashing of the charge sheet dated 25th April, 2018 in Criminal Case No.1066/9/19 arising out of Case Crime No.121 of 2008, under Section 376 of IPC at Police Station- Kotwali, District- Mathura.

This Court has gone through the judgement and finds that the facts therein were different. In the case of the petitioner, the

impugned FIR shows that the petitioner had persuaded the victim into getting a marriage by an agreement through notarial affidavit on 17.05.2023.

With regard to the evaluation of the evidence, the trial court is a proper forum. Insofar as this Court is concerned, from a perusal of the FIR, cognizable offence is made out against the petitioner.

Accordingly, the writ petition is **dismissed**.

Order Date :- 24.11.2023

Ashutosh Pandey