

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 9052 of 2023

Petitioner :- Shrishti Kesharwani And Others

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

Counsel for Petitioner :- Sumeet Tahilramani, Shiv Pratap Singh

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 A.G.A. for the State-respondents as well as Sri Avinash Pandey and Rahul Kumar, who has filed today vakalatnama of behalf of the opposite party no.4.

This petition has been filed praying the following reliefs:-

(a) Issue a writ, order or direction in the nature of certiorari thereby quashing the impugned first information dated 23.5.2023 vide F.I.R. No.301 of 2023, under Sections 498-A, 504, 506, 354-Ka, 323, 313, 342 I.P.C. and Section 3/4 of Dowry Prohibition Act, at Police Station Kotwali City, District Pratapgarh, as contained in Annexure No.1 to this writ petition."

(b) Issue a writ, order or direction in the nature of mandamus commanding the opposite party no 3 not to harass, detain or prosecute the petitioner in pursuance of the impugned F.I.R.

It has been submitted by the learned counsel for the petitioners that dispute in matrimonial in nature and can be resolved through mediation.

Counsel for the opposite party no. 4 says that she has specific instruction that the petitioner had harassed the opposite party no. 4 to such a extent that she is not willing to go for mediation proceedings. The counsel for the respondent no. 4 has pointed out that this Court vide order dated 26.9.2023 has disposed of the Criminal Misc. Writ Petition No. 7399 of 2023 (Smt. Juhi Kesarwani Vs.State of U.P. and others) and this Court finds that the parties are not willing to settle the dispute through mediation and mediation being voluntarily remedy, therefore,

this cannot forced the opposite party no. 4 to settle the dispute through mediation.

It has been submitted by the learned counsel for the petitioner on merits that the petitioner no. 1 is minor sister-in-law of the opposite party no. 4, the petitioner no. 2 is husband of the opposite party no. 4, petitioner no. 3 is father-in-law of the opposite party no. 4, petitioner no. 4 is mother-in-law of the opposite party no. 4 and the petitioner no. 5 is cousin brother of the father-in-law of the opposite party no. 4 and therefore, he is also father-in-law of the opposite party no. 4. The petitioner is living separately. The petitioner no. 1 is minor and was born in 2006.

It has been submitted by the counsel for the petitioners that all the allegations against petitioners are general in nature. There is also no medial examination report showing that the petitioners have forced the opposite party no.4 for abortion.

The Court having perused the impugned F.I.R. finds that the matter requires consideration in so far as the petitioner no. 1 and petitioner no. 5 are concerned. This Court entertained this writ petition only for petitioner no. 1 and petitioner no. 5 and granted interim protection of stay their arrest till credible evidence is collected by the Investigating Officer.

As there is detail description of harassment against the petitioner nos. 2, 3 and 4 for committing harassment upon the opposite party no. 4 in the F.I.R., therefore, no protection is granted them.

This writ petition is **disposed of for** petitioner no. 1 and 5 and granting limited protection to them. **For the rest of the petitioners, the writ petition is dismissed.**

Order Date :- 28.11.2023

Anuj Singh