

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 9151 of 2023

Petitioner :- Mahiruddeen Alias Maniuddeen Alias Mavolana

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

Counsel for Petitioner :- Rayees Ahmad Khan

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.

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

"i) A writ, order or direction in the nature of certiorari for quashing the impugned First Information Report lodge by the opposite party no.4 in case crime no.0284/2023 at Police Station Tulsipur, District Balrampur under Section 363 I.P.C. contained as Annexure No.1 to this writ petition."

This Court had passed an order on 01.12.2023, which is quoted hereinbelow:-

"None appears for the petitioner. Learned A.G.A. for the State-respondents is present."

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

"i) A writ, order or direction in the nature of certiorari for quashing the impugned First Information Report lodge by the opposite party no.4 in case crime no.0284/2023 at Police Station Tulsipur District Balrampur Under Section 363 I.P.C. contained as Annexure No.1 to this writ petition."

ii) A writ, order or direction in the nature of mandamus commanding the opposite parties 1 to 3 not to arrest or adopt any coercive measure against the petitioner on the basis of first information report lodge by the opposite party no.4 in case crime no.0284/2023 at Police Station Tulsipur District Balrampur Under Section 363 I.P.C. contained as Annexure No.1 to this writ petition."

We have perused the pleadings on record and it appears that petitioner is the main accused and he enticed away the daughter of the informant, who is a minor.

In view of the above, learned AGA for the State-respondents is directed to seek instructions in the matter whether the victim has been recovered or not.

List this matter on 12.12.2023 as fresh."

Learned A.G.A. has produced before this Court instructions dated 11.12.2023 sent by Sri Nagendra Singh, Sub Inspector, P.S. Tulsipur, District Balrampur, wherein it has been stated that the victim has been recovered and examination of her educational record showed her to be 16 years 10 months old at the time of the alleged incident. The victim was produced before the Child Welfare Committee Balrampur, and her custody was given to her parents. The statement of the victim under Section 164 of the Cr.P.C. has also been recorded. Since the victim is a minor, as per the statement of the victim recorded under Section 161 and 164 Cr.P.C., Section 376 (2) of the I.P.C. and Section 3/4 (2) of the P.O.C.S.O. Act has also been added during the course of investigation.

Instructions along with the copy of the Case Diary are kept on record.

After having examined the submissions advanced by learned counsel for the parties and the statement of the victim recorded under Section 164 of the Cr.P.C., a copy of which has been enclosed along with the copy of the Case Diary, we are of the opinion that, *prima facie*, the impugned F.I.R. discloses cognizable offence to have been committed 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 and accordingly, the present writ petition is ***dismissed***.

Order Date :- 12.12.2023
Rahul