

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 9138 of 2023

Petitioner :- Rasid @ Mohammad Habibul Islam And Another
Respondent :- State Of U.P. Thru. Addl. Chief Secy. Deptt. Of Home Lko. And Others

Counsel for Petitioner :- Asim Kumar Singh

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Narendra Kumar Johari,J.

1. Heard learned counsel for the petitioners and learned A.G.A. who appears on behalf of the State Respondents.

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

"i) to issue a writ, order or direction of or in the nature of certiorari quashing the impugned FIR No. 0308/2023, dated 03.09.2023, U/s-306 of IPC and 3(2)(v) of the SC/ST Act, registered at Police Station- Kunda, District- Pratapgarh, contained in Annexure No.1 to this writ petition;

ii) to issue a writ, order or direction of or in the nature of mandamus commanding the respondent nos. 1 to 3 not to arrest the petitioners during the course of investigation;

iii) to issue a writ, order or direction of or in the nature of mandamus commanding the respondent nos. 1 to 3 to refrain from using coercive measures against the petitioners;

iv) to issue a writ, order or direction of or in the nature of mandamus commanding the respondent nos. 1 to 3 to investigate entire incident in a fair and impartial manner;"

3. It has been submitted by the learned counsel for the petitioners that although in the F.I.R. mention has been made that the petitioners had taken some money from the deceased son of the informant and had not returned, it cannot be a cause for committing suicide by a normal person. Hence the ingredients of Section 306 of the I.P.C. are not made out.

4. Learned counsel for the petitioners says that the basic ingredients relating to constituting the offence of abatement of

suicide are not evident from a perusal of the F.I.R.. He has placed reliance upon the judgement rendered by the Hon'ble Supreme Court in the case of ***M. Mohan Vs. State represented by the Deputy Superintendent of Police***, reported in '(2011) 3 SCC 626 and ***Kashibai and Others Vs. State of Karnataka***, reported in ***2023 SCC Online SC 575***.

5. It is evident from a perusal of the *M. Mohan (Supra)* that it has been rendered in a Criminal Appeal arising out of the judgement rendered by the Madurai Bench of the High Court of Judicature at Madras in Criminal Original Petition No. 94 of 2006. The High Court had evaluated the fact and come to the conclusion, but the Supreme Court come to a different conclusion. The evaluation of facts and evidences by the High Court was again considered in appeal by the Hon'ble Supreme Court, therefore, the order of the High Court were set aside. In the case of the petitioner, it is only an F.I.R. that has been challenged. The F.I.R. cannot be said to be encyclopedia of the events meeting to the suicide of the deceased son of the informant. At this initial stage, this Court cannot, therefore placed reliance upon *M. Mohan(Supra)* and and quashed the F.I.R. scuttle the investigation that would result from the lodging of such F.I.R. merely at the instance of the accused.

6. It is also evident from a perusal of *Kashibai (Supra)* that it has also a judgement rendered in a Criminal Appeal challenging the judgement of the High Court of Karnataka, Kalaburagi Bench.

7. This Court is of the considered opinion that every person has a different mental make up and a person can be stressed to such an extent as to force him to commit suicide, if he suffering financial losses because of some dealing with the petitioners. It is a question for the Trial Court to evaluate all evidence being produced.

8. This Court finds no good ground to show interference in the impugned F.I.R.

9. The writ petition stands ***dismissed***.

Order Date :- 1.12.2023

Darpan Sharma