

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 9241 of 2023

Petitioner :- Nabbu And Others

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

Counsel for Petitioner :- Ashid Ali, Mohammad Kashif

Counsel for Respondent :- G.A., Sudhir Kumar

Hon'ble Mrs. Sangeeta Chandra, J.

Hon'ble Narendra Kumar Johari, J.

1. Learned counsel for the petitioners has pointed out the earlier orders passed by this Court.

2. Learned A.G.A. for the State Respondents has produced before this Court written instructions dated 13.12.2023 sent by Sri Siddharth Jaiswal, Sub-Inspector of Police, Police Station-Jankipuram, District- Lucknow wherein it has been stated that after examination of Medico Legal Report of the victim Section 307 of the I.P.C. has been deleted and entry of the same has been made at Serial No. 55 of the General Diary on 19.11.2023. This Court had directed the learned A.G.A. for the State Respondents to produce the Criminal History, if any, of the petitioners, a list of cases that have been registered at various Police Stations against the petitioners have been enclosed to the said instructions which are as follows:-

"Criminal history of the accused Nabbu S/o Shakil

1. Case Crime No. 113/2021, under Sections 147/148/149/427/504/506 of the I.P.C. Police Station-Jankipuram, Lucknow

2. Case Crime No. 344/2019, under Sections 323/498-A/504/506 of the I.P.C. Police Station- Jankipuram, Lucknow

3. Case Crime No. 290/2023, under Sections 147/148/149/452/354/323/504 of the I.P.C. Police Station-Jankipuram, Lucknow

Criminal history of the accused Sabbu S/o Shakil

1. Case Crime No. 113/2021, under Sections 147/148/149/427/504/506 of the I.P.C. Police Station-

Jankipuram, Lucknow

2. Case Crime No. 695/2017, under Sections 3/4 of the Public Gambling Act, Police Station- Vibhuti Khand, Lucknow

3. Case Crime No. 290/2023, under Sections 147/148/149/452/354/323/504 of the I.P.C. Police Station- Jankipuram, Lucknow

Criminal history of accused Guddu S/o Shakil

1. Case Crime No. 113/2021, under Sections 147/148/149/427/504/506 of the I.P.C. Police Station- Jankipuram, Lucknow

2. Case Crime No. 290/2023, under Sections 147/148/149/452/354/323/504 of the I.P.C. Police Station- Jankipuram, Lucknow

Criminal history of accused Nafees S/o Shakil

1. Case Crime No. 113/2021, under Sections 147/148/149/427/504/506 of the I.P.C. Police Station- Jankipuram, Lucknow

2. Case Crime No. 290/2023, under Sections 147/148/149/452/354/323/504 of the I.P.C. Police Station- Jankipuram, Lucknow

Criminal history of accused Chand Siddiqui S/o Shakil

1. Case Crime No. 344/2019, under Sections 323/498-A/504/506 of the I.P.C. Police Station- Jankipuram, Lucknow

2. Case Crime No. 187/2017 under Section 506 of the I.P.C. Police Station- Jankipuram, Lucknow

3. Case Crime No. 290/2023, under Sections 147/148/149/452/354/323/504 of the I.P.C. Police Station- Jankipuram, Lucknow

4. Case Crime No. 113/2021, under Sections 147/148/149/427/504/506 of the I.P.C. Police Station- Jankipuram, Lucknow

Criminal history of accused Sarik S/o Sabbu

1. Case Crime No. 113/2021, under Sections 147/148/149/427/504/506 of the I.P.C. Police Station- Jankipuram, Lucknow

2. Case Crime No. 290/2023, under Sections 147/148/149/452/354/323/504 of the I.P.C. Police Station-Jankipuram, Lucknow

Criminal history of accused Sahil S/o Shakil

1. Case Crime No. 113/2021, under Sections 147/148/149/427/504/506 of the I.P.C. Police Station-Jankipuram, Lucknow

2. Case Crime No. 290/2023, under Sections 147/148/149/452/354/323/504 of the I.P.C. Police Station-Jankipuram, Lucknow"

3. The writ petition has been filed with the prayers for the following reliefs:-

"a) a writ order or directions in the nature of Certiorari quashing the impugned F.I.R. dated 19.11.2023 lodged by the opp. party No.4 which was registered at Case Crime No. 0290 of 2023, under section 147,148,149,452,354, 323,307,504 I.P.C. Police Station-Jankipuram, District Lucknow, contained in Annexure No.1 to the writ petition.

b) a writ order or directions in the nature of Mandamus commanding and directing the opposite parties not to arrest the petitioners on the basis of impugned F.I.R. dated 19.11.2023 contained in Annexure No.1 to the writ petition."

5. This Court having gone through the instructions and finds that after deletion of Section 307 of the I.P.C. all the remaining invoked against the petitioners in the impugned F.I.R. carry the sentence of upto 7 years of imprisonment and therefore they are entitled for the benefit of the judgement rendered by the Supreme Court in the case of **Arnesh Kumar Vs. State of Bihar**, reported in **(2014) 8 SCC 273**.

6. Accordingly, we **dispose of** this petition with the direction to the Investigating Officer 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 :- 19.12.2023

Darpan Sharma