

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 9473 of 2023

Petitioner :- Shiv Nayak Yadav And Others

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

Counsel for Petitioner :- Arshad Ahsan Siddiqui

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:-

"a. Issue a writ order or direction in the nature of Certiorari thereby quash the impugned First Information Report dated 07.09.2023 registered at FIR No. 0430 of 2023 under sections 323, 504, 506,326 I.P.C. Police Station- Bhadokhar, District-Raebareli lodged by the opposite party no. 4, contained as Annexure No. 1 to this writ petition.

b. Issue a writ, order or direction in the nature of mandamus commanding the opposite party no. 2 and 3 not to arrest or adopt any coercive measures against the petitioner in relation to the impugned First Information Report dated 07.09.2023 registered at FIR No. 0430 of 2023 under sections 323, 504, 506,326 I.P.C. Police Station- Bhadokhar, District-Raebareli lodged by the opposite party no. 4, contained as Annexure No. I to this writ petition."

3. It has been submitted by the learned counsel for the petitioners that the petitioners are completely innocent and have falsely been implicated in the impugned F.I.R. The petitioners had lodged a complaint against the son of the respondent no.4, namely, Neeraj @ Vikram, who is a muscleman. Such complaint was lodged under Sections 323, 504, 506, 379 of the I.P.C. and the Magistrate had issued summons to the son of the opposite party no.4 on 19.07.2023. As a counterblast, the impugned F.I.R. has been lodged.

4. It has also been submitted that the F.I.R. is delayed and

referred to an incident which occurred eight days earlier.

5. Learned A.G.A. for the State Respondents has produced before this Court instructions sent by Sri Gibrail, Sub-Inspector of Police, Police Station- Bhadokhar, District- Raebareli wherein it has been stated that after examination of the Medical Report including Bed Head Ticket, X-Ray Report and CT Scan Report, it has come out that the Provisional Diagnosis made by the Consultant is Assault Injury and the Scan also show facial fracture on the Right Mandible. X-Ray of the left foot also shows fracture of the IInd and IIIrd Meta Tarsals. On 16.10.2023, the statement of the victim was recorded and after examination of evidence that was available Section 325 of the I.P.C. has been added. Now investigation is going on under Sections 323, 504, 506, 326, 325 of the I.P.C. The victim was operated upon by the Dental Surgeon of Trauma Centre, Lucknow and the Statement of the Dental Surgeon has also been recorded. The petitioners are absconding and could not be apprehended for taking of their evidences.

6. It has also been stated in the instructions that the petitioners have stated that they have no criminal history where as the petitioners have criminal history of atleast two cases registered against them.

7. The written instructions alongwith case diary are taken on record.

8. This Court has perused the F.I.R. and also the instructions finds cognizable offence to be made out against the petitioners.

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

Order Date :- 15.12.2023

Darpan Sharma