In Chamber

Case :- CRIMINAL MISC. WRIT PETITION No. - 4841 of 2020

Petitioner :- Suneel Jaiswal @ Ravi And 3 Others
Respondent :- State Of U.P. And 2 Others
Counsel for Petitioner :- Prashant Pratap Rao
Counsel for Respondent :- G.A.

Hon'ble Ramesh Sinha,J.
Hon'ble Samit Gopal,J.

By means of this petition, the petitioner has prayed for quashing of the impugned FIR dated 13.2.2020 alongwith stay of arrest in Case Crime No. 35 of 2020 under section 498-A I.P.C. and 3/4 D.P. Act, police station Geeda, District Gorakhpur.

Perused the impugned FIR and the pleadings as has been averred in the present writ petition which is supported by an affidavit.

The office has placed before the Court a written objection received by E-mail from the learned Additional Government Advocate for the State, but no written objection whatsoever of the informant/complainant/aggrieved person with respect to the prayer of stay of arrest of the petitioner has been placed before the Court. The said written objection of the learned Additional Government Advocate is taken on record and considered by the Court.

It transpires from the impugned F.I.R. that the marriage between petitioner no. 1 and respondent no. 3 was solemnized on 1.5.2015 accordingly Hindu rites and rituals and from their wedlock a male child was born. Petitioner nos. 2, 3 and 4 are mother-in-law, father-in-law and sister-in-law (Jethani) of respondent no. 3. It has been mentioned in para-7 of the present petition that petitioner no. 1 was doing job at Mumbai on account of which he used to live there and when respondent no. 3 had shown her desire to live with him at Mumbai, he took her along with him and after residing there for some when she became pregnant, petitioner no. 1 take her back at his house at Gorakhpur as there was no one at Mumbai to take care of her on account of which she became annoyed and went to her parental house and did not return back. Thereafter, just to harass the petitioner no. 1 and his family members, she lodged the present F.I.R. for the incident which is said to have taken place five years ago., i.e., in the year 2015 as has been mentioned in para-8 of the present petition.

After having examined the pleadings made in the writ petition, perusing the impugned First Information Report and considering the averments made in the petition, we are of the considered opinion that the petitioner shall not be arrested in Case Crime No. 35 of 2020 under section 498-A I.P.C. and 3/4 D.P. Act, police station Geeda, District Gorakhpur till submission of the police report under Section 173(2) Cr.P.C., if any, before the competent court.

It is made clear that it will be open for the informant/ complainant/ aggrieved person to move an appropriate application for recall/modification of this order, as the case may be, if there has been any material concealment of fact in the present writ petition as the Court has

proceeded to take up the present matter during the period of lockdown in the State of U.P. as well as in the Country on the call given by the Hon'ble Prime Minister of India due to Novel Corona Virus (COVID-19), within a period of two months from today.

With the aforesaid directions, this petition is finally disposed of.

The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad, self attested by the petitioners alongwith a self attested identity proof of the said persons (preferably Aadhar Card) mentioning the mobile number (s) to which the said Aadhar Card is linked.

The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

(Samit Gopal, J.) (Ramesh Sinha, J.)

Order Date :- 16.4.2020
Shiraz