Court No. - 1

Case :- CRIMINAL MISC. WRIT PETITION No. - 14935 of 2020

Petitioner :- Zafar Masood Abbasi
Respondent :- State Of U.P. And 2 Others
Counsel for Petitioner :- Zafar Abbas,Aqeel Ahmad
Counsel for Respondent :- G.A.

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

Heard Sri Zafar Abbas, learned counsel for the petitioner, Sri A.K. Sand, learned AGA for the State and perused the First Information Report and the material on record.

The present writ petition has been filed by the petitioner, namely, Zafar Masood Abbasi for quashing of the First Information Report dated 26.10.2020 in Case Crime No. 0229 of 2020, under Sections 420, 409 IPC and Section 25 Mahatma Gandhi National Rural Employment Guarantee Act, 2005, P.S. Mubarakpur, District Azamgarh with a further prayer to stay of arrest of the petitioner during the pendency of the investigation of the said case.

Learned counsel for the petitioner submits that the petitioner is an Accountant posted at Block Sathiyau, P.S. Mubarakpur, the allegation has been levelled against the the petitioner that the money disbursed on the joint Secretary of the petitioner and Block Development Officer, the amount which is said to have been embezzled by the petitioner along with the two other co-accused.

Learned AGA opposed the prayer for quashing of the First Information Report and argued that the amount of Rs. 22 lakhs of the Manrega has been embezzled by the petitioner along with the two other co-accused and from the perusal of the First Information Report, a cognizable offence is made out against the petitioner, and therefore, the present writ petition be dismissed.

The Full Bench of this Court in **Ajit Singh @ Muraha Vs. State of U.P. and others : (2006) 56 ACC 433** reiterated the view taken by the earlier Full Bench in **Satya Pal Vs. State of U.P. and others : 2000 Cr.L.J. 569** after considering the various decisions including **State of Haryana Vs. Bhajan Lal and others : AIR 1992 SC 604** that there can be no interference with the investigation or order staying arrest unless

cognizable offence is not ex-facie discernible from the allegations contained in the F.I.R. or there is any statutory restriction operating on the power of the police to investigate a case.

Further the Apex Court in the case of **State of Telangana v. Habib Abdullah Jellani : (2017) 2 SCC 779** has disapproved an order restraining the Investigating Agencies arresting the accused where prayer of quashing the First Information Report has been refused.

From the perusal of the FIR, prima facie it cannot be said that no cognizable offence is made out. Hence, no ground exists for quashing of the F.I.R. or staying the arrest of the petitioner.

Accordingly, this writ petition fails and is dismissed.

The party shall file computed generated copy of order downloaded from the official website of High Court Allahabad, self attested by it alongwith a self attested identity proof of the said person(s) (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 the computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

Order Date :- 10.12.2020
M. ARIF

Digitally signed by Justice Samit Gopal
Date: 2020.12.11 13:12:53 IST
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