Court No. - 1

Case :- CRIMINAL MISC. WRIT PETITION No. - 15272 of 2020

Petitioner :- Virendra Kumar Patel
Respondent :- State Of U.P. And 2 Others
Counsel for Petitioner :- M J Akhtar,Uma Shankar Tiwari
Counsel for Respondent :- G.A.

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

Heard Sri Uma Shankar Tiwari, learned counsel for the petitioner, Kumari Meena, 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, Virendra Kumar Patel seeking quashing of the First Information Report of Case Crime No.809 of 2020, under Sections 406, 420 IPC, P.S. Soraon, District Prayagraj, with a further prayer to stay of arrest during the pendency of the investigation of the said case.

Learned counsel for the petitioner submits that the main allegation is against the co-accused Anuj Kumar Patel and the petitioner has been falsely implicated in the present case just for harassment. He submits that the allegations levelled against the petitioner are absolutely false, frivolous and baseless, hence present FIR lodged against the petitioner is liable to be quashed.

Learned AGA opposed the prayer for quashing of the First Information Report and argued that from the perusal of the First Information Report, a cognizable offence is made out against the petitioners, 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 petitioners.

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.

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

Order Date :- 10.12.2020
Tamang