Court No. - 1

Case :- CRIMINAL MISC. WRIT PETITION No. - 15095 of 2020

Petitioner :- Pranshu Pathak And 3 Others
Respondent :- State Of U.P. And 2 Others
Counsel for Petitioner :- Randhir Singh,Kunwar Rajan
Counsel for Respondent :- G.A.

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

Learned counsel for the petitioner states that he could not file the certified copy of the impugned F.I.R. and prays for exemption. The exemption application is allowed.

Heard Sri Randhir Singh, learned counsel for the petitioners, Ms. Archana Singh, learned A.G.A. appearing for the State and perused the First Information Report and the material on record.

The present writ petition has been filed by the petitioners, namely, Pranshu Pathak, Rakesh Kumar Pathak, Kusuma and Prashant Pathak, seeking quashing of the First Information Report of Case Crime No.87 of 2020, under Sections 498A, 323, 504 I.P.C. and 3/4 D.P. Act, Police Station Shivali, District Kanpur Dehat with a further prayer to stay of their arrest during the pendency of the investigation of the said case.

It has been submitted by the petitioners that the marriage between the petitioner no.1and respondent no.3 was solemnized in the year 2014 and from their wedlock two children were born. Thereafter, some dispute arose between the husband and wife, on account of which the impugned FIR has been lodged by the respondent no.3 roping the entire family of her husband, petitioner no.1 containing absolutely false, concocted, vague and sweeping allegations against them for demand of dowry and on account of non fulfilment of the alleged demands of dowry she was being tortured and maltreated by them in her matrimonial home. It has next been submitted that apart from the bald allegations made in the FIR no credible evidence whatsoever is forthcoming even prima facie indicating at the petitioners' complicity in the commission of the alleged offence, hence the impugned FIR 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 computer 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, before the concerned Court/Authority/Official.

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
NS

Digitally signed by Justice Samit Gopal
Date: 2020.12.10 18:12:26 IST
Reason: Document Owner
Location: High Court of Judicature at Allahabad

Digitally signed by Justice Ramesh Sinha
Date: 2020.12.10 18:18:19 IST
Reason: Document Owner
Location: High Court of Judicature at Allahabad