Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 7886 of 2023

Petitioner :- Mohd. Imran Alias Imran And Others
Respondent :- State Of U.P Thru. Addl. Chief Secy. Home Deptt. Civil Secrt. Lko. And Others
Counsel for Petitioner :- Narvind Kumar Singh
Counsel for Respondent :- G.A.,Ashish Kumar Singh,Atul Kumar Mishra

Hon'ble Vivek Chaudhary,J.
Hon'ble Om Prakash Shukla,J.

1. Heard learned counsel for the petitioners, learned A.G.A. appearing for the State/opposite parties, learned Counsel for the opposite party No.4 and perused the record.

2. This petition seeks issuance of direction in the nature of certiorari for quashing the impugned F.I.R. dated 25.09.2023 bearing F.I.R./Case Crime No.295 of 2023, for the offence under Sections 147, 148, 149, 294, 308, 323, 325, 504, 506 and 354 I.P.C., registered at Police Station Dubagga, District Lucknow.

3. Learned counsel for the petitioners has submitted that the offences as alleged in F.I.R. have maximum punishment for the term less than seven years imprisonment, whereas, the police is trying to arrest them, which is against the mandates of Code of Criminal Procedure.

4. Learned Additional Government Advocate appearing for respondent State has given a statement on behalf of investigating agency that because the offence allegedly committed by the petitioners, entails sentence of less than seven years, provisions of Section 41-A Cr.P.C. (Now Section 35(3) of ***BNSS, 2023***) shall be strictly followed in terms of judgment rendered by Hon'ble Supreme Court of India in a case reported in ***(2014) 8 SCC 273: Arnesh Kumar vs. State of Bihar and another***.

5. Considering the stand of the investigating agency, learned counsel for the petitioner states that let this petition be disposed

of in view of the above said facts.

6. Accordingly, this petition is ***disposed of*** in view of the provisions of Section 41-A Cr.P.C. (Now Section 35(3) of BNSS, 2023) and the law as laid down by Apex Court in the case of ***Arnesh Kumar*** (supra).

[Om Prakash Shukla, J.] [Vivek Chaudhary, J.]

Order Date :- 20.11.2024
Piyush/-

Digitally signed by :-
PIYUSH YADAV
High Court of Judicature at Allahabad,
Lucknow Bench