Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 9555 of 2024

Petitioner :- Irshad @ Irshad Ahamad And Another
Respondent :- State Of U.P. Thru. Prin. Secy. Home Lko. And Others
Counsel for Petitioner :- Abhishek Awasthi
Counsel for Respondent :- G.A.

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

1. Mr. Farooq Ayoob, Advocate has filed his vakalatnama on behalf of the complainant today in the Court, which is taken on record.

2. Heard learned counsel for the parties.

3. This petition seeks issuance of direction in the nature of certiorari for quashing the impugned F.I.R. dated 06.12.2024, bearing F.I.R./Case Crime No.0499/2024, under Sections 3(5), 115(2), 351(3), 352, 110 B.N.S., Police Station Dariyabad, District Barabanki.

4. 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.

5. 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 **35(3) of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)** 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***.

6. Considering the stand of the investigating agency, learned counsel for the petitioners states that let this petition be disposed of in view of the above said facts.

7. Accordingly, this petition is ***disposed of*** in view of the

provisions of Section 35(3) of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) 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 :- 16.12.2024
Saurabh

Digitally signed by :-
SAURABH VERMA
High Court of Judicature at Allahabad,
Lucknow Bench