Court No. - 3

Case :- CRIMINAL MISC. WRIT PETITION No. - 24141 of 2018

Petitioner :- Karam Chand And 2 Others
Respondent :- State Of U.P. And 2 Others
Counsel for Petitioner :- Prabhat Kumar Tiwari,Uma Dutt Shukla
Counsel for Respondent :- G.A.,Deepak Kumar Tripathi

Hon'ble Rajesh Dayal Khare,J.
Hon'ble Neeraj Tiwari,J.

Heard learned counsel for the petitioners, learned A. G. A. for the State and Sri Deepak Kumar Tripathi, learned counsel for the respondent No.3.

This writ petition has been filed by the petitioners with the prayer to quash the F. I. R. dated 1.8.2018 which has been registered as Case Crime No. 131 of 2018, under Sections-498A, 323, 354, 506, 328, 376, 295-A IPC and Section 3/4 D.P. Act, police station Mahila Thana, district Agra, so far it relates to the petitioners. .

It is contended by learned counsel for the petitioners that petitioner No. 1-husband and his family members have been falsely implicated in the present case by the respondent No.3 on general allegations, therefore, criminal prosecution of the petitioners is in clear contravention of the settled principle of law laid down by Hon'ble Apex Court reported in **(2012) 10 Supreme Court Cases 741** in the matter of **Geeta Mehrotra and another versus State of Uttar Pradesh**. He further submitted that apart from the bald allegations made in the F. I. R., which is a bundle of lies and product of malice, no credible evidence is forthcoming, even prima facie, indicating that any such incident had taken place, hence the impugned F. I. R. is liable to be quashed.

Per contra, learned A. G. A. submitted that from the perusal of the impugned F. I. R. it cannot be said that no cognizable offence is made out, hence the impugned F. I. R. is not liable to be quashed.

So far as the petitioner No. 1 (husband) namely **Karam Chand** is concerned following order is being passed:-

From the perusal of the F. I. R., it appears that on the basis of the allegations made therein, prima facie cognizable offence is made out. There is no ground for interference with the F. I. R. Therefore, the prayer for quashing the impugned F. I. R. is refused.

However, considering the nature of the allegations made in the F. I. R. and submissions made by learned counsel for the petitioner, it is directed that in case the petitioner appears before the court concerned within thirty days from today and applies for bail, the same shall be heard and disposed of expeditiously, if possible, on the same day by the courts below in view of the settled law laid by the Seven Judges' decision of this Court in the case of **Amrawati and another Vs. State of U.P. reported in 2005 Cr. L. J. 755** as well as judgement passed by Hon'ble Apex Court reported in **2009 (3) ADJ 322 (SC) Lal Kamlendra Pratap Singh Vs. State of U.P**.

So far as petitioner No. 2 and 3 are concerned, following orders is being

passed:-

From the perusal of the F.I.R. it appears that on the basis of the allegations made therein prima facie cognizable offence is made out hence, there is no scope for interfering with the impugned F. I. R.

Therefore, the prayer for quashing the impugned F. I. R. is refused.

However, considering the submissions advanced by learned counsel for the petitioners and nature of allegations made in the F. I. R., it is directed that the petitioners NO. 2 and 3 shall not be arrested in the aforementioned case till submission of police report under Section 173 (2) or till credible evidence is collected, whichever is earlier.

With the above directions, this petition is disposed of finally.

Order Date :- 31.8.2018
Shalini