

Hon'ble Ravindra Maithani, J.

Mr. U.S. Bhakuni, Advocate for the petitioner.

Mr. S.S. Adhikari, A.G.A. for the State of Uttarakhand.

Mr. Mani Kumar, Advocate for respondent no.3.

Heard.

The instant writ petition has been filed by the petitioner seeking the following reliefs:

(i) Issue a writ order or direction in the nature of Certiorari quashing the impugned F.I.R. dated 28.12.2018 registered as F.I.R./case crime No.705 of 2018 under Section 452, 364, 376, 511, 342, 323, 506 I.P.C. P.S. Rudrapur District Udham Singh Nagar.

(ii) Issue a writ order or direction in the nature of mandamus commanding the respondents not to arrest the petitioner in F.I.R./case crime No.705 of 2018 under Section 452, 364, 376, 511, 342, 323, 506 IPC P.S. Rudrapur District Udham Singh Nagar till the pendency of present petition.

In the instant case, FIR has been filed by the first informant Savitri against her husband, the present petitioner and other persons. According to it, husband of the first informant would torture, harass and beat her. On 23.11.2018, her husband ruthlessly thrashed her, therefore, the first informant, along with his son, went to stay with her friend Maya Shukla. According to FIR, on 21.12.2018, husband of respondent no.3 along with the petitioner and other persons forcefully entered the house of Maya Shukla at 10:30 p.m. and forcefully took them away in a car to Sitarganj, Baribara, where husband of respondent no.3 and Kailash Gangwar tried to rape her. The first informant was

threatened to her life by her husband and the petitioner.

Learned counsel for the petitioner would argue that no specific role has been assigned to the petitioner. This is a family dispute and according to prosecution, investigation is going on and the petitioner will cooperate in the investigation. Therefore, the arrest may be stayed.

On the other hand, it is argued on behalf of the State that the petitioner is a history-sheeter and it is only on the strength of the petitioner, that the husband of respondent no.3 could commit such atrocity upon the first informant.

Perusal of the FIR would reveal that it discloses commission of cognizable offence. Whether the averments made are true or not, it is a matter for investigation and this Court while hearing the petition under Section 482 of the Code of Criminal Procedure, 1973 cannot look into and examine the facts, therefore, this is not a case, in which FIR may be quashed.

So far as stay of arrest is concerned, in every criminal case, arrest is not made mechanically. There are various guidelines given by the Hon'ble Apex Court for effecting arrest.

Considering the facts and circumstances of the instant case, this Court is of the view that this is not a case in which as direction regarding stay of arrest may be given.

In view of the foregoing discussion, the petition deserved to be dismissed and is dismissed accordingly.

(Ravindra Maithani,J.)
Vacation Judge

28.01.2019