

Court No. - 46

Case :- CRIMINAL MISC. WRIT PETITION No. - 17888 of 2019

Petitioner :- Haji Haneef

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Mohd. Samiuzzaman Khan

Counsel for Respondent :- G.A.

Hon'ble Naheed Ara Moonis,J.

Hon'ble Jayant Banerji,J.

Heard learned counsel for the petitioner and the learned A.G.A. for the State.

By means of the present writ petition, the petitioner has invoked extraordinary jurisdiction of this Court with a prayer to quash the F.I.R. dated 07.06.2019, registered as Case Crime No.459 of 2019, under Section 147, 148, 149, 341, 352, 353, 336, 436, 427 IPC and Section 7 of Criminal Law (Amendment) Act at Police Station-Murad Nagar, District-Ghaziabad.

Learned counsel for the petitioner submitted that the impugned first information report has been lodged by the respondent no.4 containing absolutely false and concocted allegations against the petitioner with the ulterior intention of harassing him. He further submitted that apart from the bald allegations made in the impugned F.I.R. no evidence is forthcoming even prima facie indicating at the complicity of the petitioner in the commission of the alleged crime and hence the impugned F.I.R. is liable to be quashed.

Per contra, learned A.G.A. contended that the allegations made in the first information report cannot be aborted at this stage. The petitioner will have sufficient opportunity to rebut the allegations.

From perusal of the F.I.R., prima facie cognizable offence is made out at this stage against the petitioner, therefore, we do not find any cogent reason to quash the first information report. The prayer for quashing the first information report is refused.

However, in the facts and circumstances of the case and the submissions advanced on behalf of the petitioner, it is directed that the petitioner shall not be arrested in the aforesaid case till the submission of police report under Section 173 (2) Cr.P.C., subject to the restraint that he shall co-operate with the investigation and shall appear as and when called upon to assist in the investigation.

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

Order Date :- 28.6.2019

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