

Court No. - 46

Case :- CRIMINAL MISC. WRIT PETITION No. - 6354 of 2021

Petitioner :- Dina Nath And 3 Others

Respondent :- State Of U P And 3 Others

Counsel for Petitioner :- Ashok Kumar Mishra, Krishna Kant Tiwari

Counsel for Respondent :- G.A.

Hon'ble Surya Prakash Kesarwani, J.

Hon'ble Piyush Agrawal, J.

The instant petition has been filed by the petitioners with the following prayers :-

"A) Issue a writ, order or direction in the nature of certiorari quashing the impugned first information report dated 20.6.2021 (Annexure No.1 to the writ petition) registered as Case Crime No. 0407 of 2021 under Section 420 I.P.C. and Sections 34, 60, 64, 68 of Uttar Pradesh Utpad Shulkh/ Abkhari Adhinyam, Police Station Ghosi, District Mau.

B) Issue a writ , order or direction in the nature of mandamus directing the respondents not to arrest the petitioners in pursuance of the first information report dated 20.6.2021 (Annexure No.1 to the writ petition) registered as Case Crime No. 0407 of 2021 under Section 420 I.P.C. and Sections 34, 60, 64, 68 of Uttar Pradesh Utpad Shulkh/ Abkhari Adhinyam, Police Station Ghosi, District Mau."

The submission is that all alleged offences are punishable with imprisonment of seven years, therefore the police authorities are bound to follow the procedure laid down under Section 41-A Cr.P.C. The petitioners have been wrongly implicated and could not be arrested. Learned counsel for the petitioners has placed reliance on the judgement of this Court dated 28.01.2021 in Criminal Misc. Writ Petition No.17732 of 2020 Vimal Kumar and 3 others vs. State of UP and 3 others in which guidelines have been framed following the judgment of the Apex Court in different cases, relating to offences providing punishment of seven years or less.

We have gone through the impugned first information report and we are of the opinion that the guidelines framed by this Court in the above noted judgement are equally applicable to the facts of the instant case.

Accordingly, the instant petition also stands disposed of in terms of judgement dated 28.01.2021 in Criminal Misc. Writ Petition No.17732 of 2020 Vimal Kumar and 3 others vs. State of UP and 3 others.

Order Date :- 31.8.2021/samz