

Court No. - 43

Case :- CRIMINAL MISC. WRIT PETITION No. - 6691 of 2020

Petitioner :- Umesh Pratap Singh

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Arun Kumar Tripathi, Gambhir Singh

Counsel for Respondent :- G.A.

Hon'ble Pankaj Naqvi, J.

Hon'ble Vivek Agarwal, J.

1. Heard Sri Arun Kumar Tripathi, learned counsel for the petitioner and Sri Gambhir Singh, learned AGA.

2. Petitioner has filed this petition seeking issuance of a writ, order or direction to quash the impugned FIR dated 23.06.2020 and the added Sections dated 24.06.2020 in Case Crime No.305 of 2020 under the provisions of Section 505(2) and 501 IPC so also under Section 3(2) of Mahamari (Sansodhan) Vidheyak, 2020 at Police Station-Sarayinayat, District-Prayagraj with a further prayer to direct the respondents-authorities to not to arrest and harass the petitioner.

3. Petitioner's contention is that impugned FIR has been lodged by one Dr. Amrit Lal Yadav, Superintendent, Community Health Centre, Kotwa Bani, District- Prayagraj, respondent no.5, being aggrieved of the facebook post sent by the petitioner highlighting mismanagement and lack of facilities at the quarantine centre, Kotwa Bani; copy of the facebook post is available on record as Annexure-2.

4. It is submitted that highlighting mis-management and shortcomings at the quarantine centre does not constitute an offence under Sections 505(2) and 501 IPC.

5. It is submitted that Hon'ble the Chief Justice had taken cognizance of lack of adequate hygienic conditions and inadequate treatment at the quarantine centres in Public Interest Litigation (PIL) No.574 of 2020 vide order dated 07.05.2020. Therefore, if present petitioner has highlighted the problems faced by his friends and relatives, then it will not come within the purview of printing and engraving matter known to be defamatory or does not amount to be

a statement creating or promoting enmity, hatred or ill-will between classes.

6. Similarly, no offence under the provisions of Section 3(2) of Mahamari (Sansodhan) Vidheyak, 2020 is made out.

7. We would have appreciated, if authorities, would have taken note of the facebook post and would have brought either some material to contradict the contents of the post or would have brought some material to show that after facebook post, they managed the quarantine centre in a better way rectifying the deficiencies pointed out in the post, but instead of doing anything of this sought, respondents have tried to justify their act, which shows that State is losing control over its officers and, in fact, officers are guilty of displaying intolerance towards the reformist voices treating them to be interference in the administration of justice.

8. We had called Dr. Yadav in person, but neither Dr. Yadav nor learned AGA could satisfy us as to how offence under Sections 501, 505(2) IPC or 3(2) of Mahamari (Sansodhan) Vidheyak, 2020 are made out. It is apparent that FIR has been lodged with a view to scuttle voice of dissent against the mis-management and mis-handling of the Authorities of the State in managing their quarantine centre. Such FIR is clearly mala fidely, motivated and deserves to be quashed and is accordingly quashed.

9. It is also directed that authorities of the respondent nos.4 and 5 shall pay them a compensatory cost of Rs.5,000/- to the petitioner from their own salary not to be reimbursed by the State.

Order Date :- 4.11.2020

Ashutosh