

Court No. - 43

WWW.LIVELAW.IN

Case :- CRIMINAL MISC. WRIT PETITION No. - 12809 of 2020

Petitioner :- Dhananjay

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

Counsel for Petitioner :- Jata Shankar Pandey

Counsel for Respondent :- G.A.

Hon'ble Pankaj Naqvi,J.

Hon'ble Vivek Agarwal,J.

1. Heard Sri Jata Shankar Pandey, 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 in the nature of certiorari for quashing the impugned FIR dated 06.07.2020 as Case Crime No. 248 of 2020, under Sections 270, 313, 323, 376D, 34 IPC and Section 67 of the Information Technology (Amendment) Act, 2008, registered at Police Station-Nauhjheel, District-Mathura with further prayer to direct the respondent to not to arrest the petitioner during the course of the investigation.
3. Learned counsel for the petitioner submits that respondent no. 4 lodged FIR against the petitioner on the basis of false and concocted grounds inasmuch as earlier another FIR was lodged against the petitioner on 21.08.2018 bearing Case Crime No. 49 of 2018, under Sections 328, 376, 506 IPC, Police Station-Mahila Thana Manesar, District-Gurugram.
4. It is submitted that all the allegations made by the informant are false and fabricated. Respondent no. 4 is wife of the petitioner, who is six years elder to him and this is her second marriage, but overlooking all these aspects with a view to coerce the petitioner, false and concocted grounds have been taken to lodge FIR. Though, it is not mentioned in the petition anywhere, but learned counsel for the petitioner orally submits that impugned FIR has been filed with a view to extract an undue financial gain from the petitioner.
5. Learned AGA opposes and submits that commission of cognizable offence is made out. It is also submitted that even allegations of commission of offence as are mentioned under Section 67 of the I.T. Act are also prima facie made out inasmuch as there is specific allegation of putting nude pictures of the informant on whatsapp. Therefore, merely because petitioner is husband of the informant, does not constitute a valid ground to quash the FIR.
6. After hearing learned counsel for the parties and applying the

ratio of law laid by the Full Bench of this Court in **Ajit Singh @ Muraha v. State of U.P. (2006 (56) ACC 433)** reiterated the view taken by the earlier Full Bench in **Satya Pal v. State of U.P. (2000 Cr.L.J. 569)** after considering the various decisions including **State of Haryana v. Bhajan Lal (AIR 1992 SC 604)** that there can be no interference with the investigation or order staying arrest unless cognizable offence is not ex-facie discernible from the allegations contained in the F.I.R. or there is any statutory restriction operating on the power of the Police to investigate a case.

7. From the perusal of the FIR, prima facie it cannot be said that no cognizable offence is made out. Hence, no ground exists for quashing of the F.I.R or staying the arrest of the petitioner.

8. Therefore, petition is devoid of merits deserves to be dismissed and is **dismissed**.

Order Date :- 17.12.2020

Vikram/-C