

Court No. - 1

Case :- CRIMINAL MISC. WRIT PETITION No. - 2077 of 2023

Petitioner :- Deepak

Respondent :- State Of U.P. Thru. Prin. Secy. Home Deptt., Lko. And Others

Counsel for Petitioner :- Prateek Shrivastava, Avinash Singh Vishen, Vishram Kumar Chauhan

Counsel for Respondent :- G.A.

Hon'ble Ramesh Sinha, J.

Hon'ble Narendra Kumar Johari, J.

Heard Shri Avinash Singh Vishen, learned counsel for the petitioner, Ms. Ranjana Srivastava, learned A.G.A. for the State-respondents and perused the impugned F.I.R. as well as material brought on record.

This writ petition has been filed by the petitioner- **Deepak**, seeking a writ of certiorari to quash the impugned F.I.R. dated 23.02.2023 registered as F.I.R./Case Crime No.0040 of 2023, under Section 505 (2) of I.P.C., Police Station Shivratanganj, District Amethi with a further prayer to stay the arrest of the petitioner in pursuance of the impugned F.I.R.

It has been argued by learned counsel for petitioner that petitioner, who is working as Operator in Richa Global Export Pvt. Ltd, has been falsely implicated in the present case with malafide intention. He further argued that earlier on 22.02.2023, an F.I.R. i.e. F.I.R. No.0039 of 2023 has been lodged against the complainant/respondent no.4 with an allegation that respondent no.4 through his Facebook I.D. made hate speech against ex-

Chief Minister of U.P., namely, Bahen Kumari Mayawati. The said F.I.R. was lodged by Shri Vijay Kumar Gautam, President of 178 Tiloi Vidhan Sabha Kshetra, Tiloi, District Amethi, a copy of F.I.R. dated 22.02.2023 is annexed as Annexure No.2 to the writ petition. He further argued that no offence is made out against the petitioner and the impugned F.I.R. has been lodged against the petitioner just for harassment with oblique motive, hence, the impugned F.I.R. is liable to be quashed.

Learned A.G.A., on the other hand, opposed the prayer for quashing of the F.I.R. and submits that the petitioner is named in the F.I.R. She further submits that it is alleged in the impugned F.I.R. that on 20.02.2023, petitioner, who is officer of Bhim Army through his Facebook ID made hate speech against Hon'ble Chief Minister of U.P., Yogi Adityanath Ji and Bageshwar Baba, Shri Dharendra Shastri Ji. She further submits that impugned F.I.R. discloses cognizable offence against the petitioner, hence, the instant writ petition is liable to be dismissed.

After having heard submissions advanced by learned counsel for parties and perused the impugned F.I.R., it is apparent that the petitioner had made a derogatory and disrespectful comments on Hon'ble Chief Minister of U.P., Yogi Adityanath Ji and Bageshwar Baba, Shri Dharendra Shastri. Moreover, from the allegations made in the F.I.R. as a subject matter of

investigation and at this stage it cannot be said that no offence, whatsoever is made out against the petitioner.

In view of the ratio laid down by the Apex Court in *Neeharika Infrastructure Private Limited vs. State of Maharashtra: AIR 2021 SC 1918* and on perusal of the impugned F.I.R. and material on record, it transpires that, prima facie, a case is made out against the petitioner. The submissions made by the learned counsel for the petitioners relates to disputed questions of facts, which cannot be adjudicated upon by this Court in jurisdiction of under Article 226 of Constitution of India.

From the perusal of the F.I.R., 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.

The writ petition is, accordingly, **dismissed**.

(Narendra Kumar Johari,J.) (Ramesh Sinha,J.)

Order Date :- 21.3.2023
Shubhankar