

Court No. - 46

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Case :- CRIMINAL MISC. WRIT PETITION No. - 5430 of 2021

Petitioner :- Shiv Prasad Gupta

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

Counsel for Petitioner :- R.V.Chaudhary,Prakash Chandra Srivastava

Counsel for Respondent :- G.A.

Hon'ble Surya Prakash Kesarwani,J.

Hon'ble Piyush Agrawal,J.

On the oral request of the learned counsel for the petitioner, the Additional District Magistrate, Sonbhadra is allowed to be impleaded as respondent no. 5.

Necessary correction in the array of parties be carried out during the course of the day.

Heard learned counsel for the petitioner and learned AGA for the State - respondents.

The impugned show cause notice dated 23.02.2021 under section 3(1) of the Uttar Pradesh Control of Goondas Act, 1970 (hereinafter referred to as, 'the Act, 1970') has been issued by the Additional District Magistrate, Sonbhadra to the petitioner, mainly, on the ground that a Case Crime No. 52/2020, under sections 498-A, 354, 323, 504, 506 & 120-B IPC and sections 3/4 of Dowry Prohibition Act is registered against the petitioner.

The aforesaid criminal case registered against the petitioner indicates some matrimonial disputes between the petitioner and his wife. Section 2(b) of the Act, 1970 defines the word "Goondas". Prima facie, it appears that none of the ingredients of section 2(b) of the Act, 1970 is present in the impugned notice. Thus, prima facie, the notice appears to be issued without jurisdiction.

We are constrained to observe that now, the authorities have started issuing notices under the Act, 1970 in matters relating to matrimonial dispute, which, prima facie, appear to be a mischievous act on the part of the authorities.

A similar Criminal Misc. Writ Petition No. 5477 of 2021 was entertained by this Court and when the authorities were required to show cause, then they withdrew the notices.

In view of the aforesaid, we direct the respondent nos. 1, 2 & 5 to file their personal affidavits narrating the reasons for initiating proceedings under the provisions of the Act, 1970 in

matters where the first information report arising out of matrimonial dispute has been lodged. The respondent no. 1 shall also file, along with the personal affidavit, the steps taken by him to rule out the repetition of such misuse of the Uttar Pradesh Control of Goondas Act, 1970 by the District Magistrates/Additional District Magistrates/Police in the State of Uttar Pradesh.

Put up as a fresh case on 09.09.2021 at 10.00 a.m. for further hearing.

Order Date :- 3.9.2021
Amit Mishra