

Case :- MISC. BENCH No. - 12149 of 2020

Petitioner :- Shailendra Singh Chauhan

Respondent :- State Of U.P. Thru. Prin. Secy. Home Lko. & Ors.

Counsel for Petitioner :- Lalit Kishore Pandey, Sushil Kumar Singh

Counsel for Respondent :- G.A., Aditya Vikram Shahi

Hon'ble Attau Rahman Masoodi, J.

Hon'ble Rajeev Singh, J.

The matter has come up before us after nomination by Hon'ble the Senior Judge on administrative side.

Sri Aditya Vikram Shahi learned counsel has filed Vakalatnaa on behalf of the opposite party no. 3 and his name is shown in the cause list.

This is a petition for quashing of the F.I.R. lodged against the practicing lawyer of Oudh Bar Association. The informant is also stated to be a young practicing lawyer in Delhi.

Without expressing much on the merits of the case at this stage, the Court concedes to the request of the learned counsel for the informant who prays for a week's time to file counter affidavit.

Let a counter affidavit be filed within a week to which rejoinder affidavit, if any, may also be filed within a week thereafter.

Learned A.G.A. has apprised the Court that though the statement under Section 164 Cr.P.C. has been recorded by the trial court but a copy thereof has not been transcribed in the case diary, therefore, complete instructions in the matter are awaited. Learned A.G.A. has also pointed out that the contents of the F.I.R. reflect that some relevant material was left at the place of occurrence i.e. chamber of the petitioner(accused). In the fitness of things, it is prayed that such material may also be taken into custody by the investigating agency as the chamber of the petitioner(accused) is sealed. The possession of the said material has not been taken over and for this purpose an application has been filed by the Investigating Officer before the competent court, which is still pending.

As an interim measure, the competent court is hereby directed to pass necessary orders on the pending application so that the investigating agency may assume possession of the relevant material which may have a bearing upon the case. As an abundant caution, we provide that an appropriate order to this effect may be passed so that there is no tampering with the evidence of the case.

As the Court has proceeded to grant time to the opposite parties to file counter affidavit within a week; looking to the contents of the F.I.R., prima facie, we are satisfied that a case for intervention is made out to the extent that the petitioner(accused) may not be arrested in connection with the case crime no. 0326 of 2020, under Sections 328, 354(A), 376 I.P.C., police station Vibhuti Khand, Gomti Nagar district Lucknow till the next date of listing.

It is also provided that the petitioner shall co-operate with the investigation by making himself available as and when called for. He may also not indulge into any activity subjecting the complainant to any intimidation or causing any threat to her life or property.

Order Date :- 31.7.2020
kanhaiya

(Attau Rahman Masoodi) (Rajeev Singh)