

Court No. - 47

Case :- CRIMINAL MISC. WRIT PETITION No. - 12428 of 2021

Petitioner :- Sanjay Goel and another

Respondent :- State Of U.P. and 2 Others

Counsel for Petitioner :- Swetashwa Agarwal, Dinkar Lal

Counsel for Respondent :- G.A.

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Subhash Vidyarthi, J.

Heard Shri Swetashwa Agarwal, learned counsel for the petitioners.

The relief sought in this petition is for quashing of the F.I.R. dated 27.01.2021 registered as Case Crime No.0037 of 2021 under Sections 337, 338, 427 IPC, Police Station Knowledge Park, District Greater Noida (Commissionerate Gautambuddh Nagar). Further prayer has been made not to arrest the petitioners in the aforesaid case.

Learned counsel for the petitioners submits that the petitioners are working as Director and Manager of OPPO Mobiles India Pvt. Ltd. The impugned FIR has been lodged against the petitioners and four other persons, all working at OPPO India Pvt. Ltd. alleging that the third respondent/informant bought a mobile phone of OPPO India Pvt. Ltd. on 17.7.2019. The said mobile phone exploded in his pocket on 01.9.2020, wherein he sustained injuries. So far as the impugned FIR is concerned, no offence is made out against the petitioners. They are mere Director and Manager of OPPO India Pvt. Ltd and have been falsely implicated in the present case. It is submitted that at the best the informant ought to have approached the District Consumer Dispute Redressal Commission/Consumer Court or Civil Court for redressal of his grievance. In support of his submission, he has placed reliance on the judgement of Apex Court in Criminal Appeal No.1047-1048 of 2021 (**Ravindranath Bajpe vs. Mangalore Special Economic Zone**) wherein it has been held that the company officials like Chairman, Managing Director, Director etc. cannot be held vicariously liable under criminal law for the offences committed by the company unless there are specific allegations and averments against them with respect to their individual role. He has further placed reliance on the judgment in **Pepsi Foods Ltd vs. Special Judicial**

Magistrate reported in 1998 (5) SCC 749.

Learned A.G.A. has not disputed the factual aspect of the matter.

Prima facie, we are of the opinion that present proceeding is abuse of the process of law, which requires consideration by this Court.

Issue notice to respondent no.3, returnable at an early date. Steps may be taken within a week.

The respondents are accorded four weeks' time to file counter affidavit. One week, thereafter, is accorded to file rejoinder affidavit. List thereafter.

Till the next date of listing, further proceeding of impugned First Information Report dated 27.01.2021 registered as Case Crime No.0037 of 2021 under Sections 337, 338, 427 IPC, Police Station Knowledge Park, District Greater Noida (Commissionerate Gautambuddh Nagar), shall remain stayed.

Order Date :- 22.12.2021

RKP