

**Court No. - 44**

**Case :-** MATTERS UNDER ARTICLE 227 No. - 3583 of 2021

**Petitioner :-** Atiq-Ur-Rehman And 2 Others

**Respondent :-** State Of U.P. And 2 Others

**Counsel for Petitioner :-** Santosh Kumar Singh,A.K. Mishra

**Counsel for Respondent :-** G.A.

**Hon'ble Ashwani Kumar Mishra,J.**

**Hon'ble Rajnish Kumar,J.**

Mr. Manish Goel, learned Additional Advocate General raised preliminary objection to the maintainability of the Habeas Corpus petition on the following three grounds:-

(I) That the matter, at the instant of co-accused, has travelled up to the Supreme Court in Writ Petition (Criminal) No.307 of 2020 in which the Supreme Court has recognized the right of the accused persons in the same case to apply for grant of bail or take such other steps, as may be available in law by virtue of Section 482 Cr.P.C. and Article 226 of the Constitution of India. It has also been stated that the Supreme Court has taken note of the fact that the accused was produced before a jurisdictional court after arrest and that a voluminous charge sheet has already been filed before the court concerned.

(II) It is urged that the issue of remand having been obtained from a court having no jurisdiction in the matter, as alleged by the petitioners, has already been examined and repelled by the revisional court in Criminal Revision No.184 of 2020 decided on 14.12.2020, which is not under challenge. Argument is that without laying challenge to such order the Habeas Corpus petition itself would not be maintainable in view of the law laid down by full bench of this Court in Km. Rachna and Others Vs. State of U.P. and Others; Habeas Corpus Petition No.362 of 2020.

(III) It is also urged that charge sheet has not only been filed but cognizance has been taken by the court concerned and warrants under Section 309 Cr.P.C. has also been issued therefore the Habeas Corpus petition, at this stage, would not be maintainable.

Shri S.F.A. Naqvi, counsel for the petitioners states that such objection have been taken for the first time and therefore he wants a short time to examine the matter and to respond the submissions so made.

As prayed by Shri Naqvi, list this matter, once again, on 11.03.2022.

**Order Date :-** 2.3.2022

Haseen U.