

Court No. - 47

Case :- CRIMINAL MISC. WRIT PETITION No. - 348 of 2022
Petitioner :- Salman @ Mohammad Salman And 2 Others
Respondent :- State Of U.P. And 2 Others
Counsel for Petitioner :- Firoz Haider
Counsel for Respondent :- G.A.,Sageer Ahmad

Hon'ble Anjani Kumar Mishra,J.
Hon'ble Deepak Verma,J.

Heard counsel for the petitioner, Sri Sagheer Ahmad, counsel for the first informant and learned A.G.A.

The writ petition seeks quashing of the First Information Report dated 25.8.2021 giving rise to Case Crime No. 121 of 2020 under Sections 376, 452, 308, 323, 504, 506 I.P.C., police station Gal Shaheed, District Moradabad.

The allegation in the F.I.R. is that the petitioner established physical relations with the first informant, who was separated from her husband Shakeel, on the promise of marriage, however, without her consent. On 14.8.2021, Salman, his brother-in-law Zulqar and aunt Fareeda came to the house of the first informant when she was alone. They abused and beat her. At that moment, her son arrived and saved her. Thereafter, the accused ran away.

In the writ petition, it has been averred that the petitioner Salman and the first informant were in live-in relationship and that the first informant is a divorcee with a son from her previous marriage. It has also been averred that on 13.12.2021, Salman and the first informant have got married.

On 21.12.2021, the first informant is said to have filed an application before the Investigating Officer, copy whereof is annexure-3 to the writ petition. In this application, it has been stated that some people had created a rift between the first informant and Salman and hence the first information report had been lodged by her. There was no physical relationship between her and Salman and that now the two have solemnized their marriage.

Annexure-4 to the writ petition is a compromise dated 2.1.2022 wherein it has been stated that the first informant was in love with Salman and that the two have now married and she does not want to prosecute him.

Sri Sagheer Ahmad, counsel for the first informant has supported the argument of counsel for the petitioners and reiterated that the first information report had been lodged

on account of misunderstanding. The proposed marriage between the first informant and Salman was got postponed on account of Covid-19 pandemic and, therefore, out of frustration and on account of misunderstanding, the first information report was lodged. Both, the counsel for the petitioner and counsel for the first informant have prayed for quashing of the F.I.R.

Upon consideration of the submissions made and upon perusal of the record, we find that in the application filed by the first informant on 21.12.2021, it has been stated that there was no physical relationship between Salman and the first informant and that the first informant was only in love with Salman.

From the facts noted above, it is clear that there is an admission by the first informant that the first information report lodged by her, which also contains allegation of rape, is completely false. It also appears that the first information report was lodged on false allegations only to build pressure upon the petitioners so as to get her marriage solemnized. Such an approach and manifestly false first information report is nothing but sheer abuse to the process of law.

The first information report under the circumstances was lodged to settle a personal grouse. The justice delivery system which includes the investigating agency as also the Courts cannot be made an instrument of settling personal score specially when in our country the legal system is already over burdened. Such misuse is only going to further confound the situation eating the precious time of both, the Investigating Agency and the Courts in dealing with false cases and as a consequence thereof genuine cases are bound to suffer.

Under the circumstances, the first information report impugned in the writ petition is hereby quashed.

However, we consider it appropriate to saddle the first informant with a cost of Rs. 10,000/- for having admittedly lodged a false and baseless first information report only for personal gain. The cost imposed above shall be deposited by the first informant, the respondent no. 4 in this writ petition within a period of 15 days from today, failing which the same shall be recovered from her as arrears of land revenue.

The writ petition stands allowed, accordingly.

Order Date :- 4.4.2022

RKM