

Court No. - 47

Case :- CRIMINAL MISC. WRIT PETITION No. - 1267 of 2022

Petitioner :- Kalicharan

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

Counsel for Petitioner :- Rajesh Yadav

Counsel for Respondent :- G.A., Anurag Kumar Pandey

Hon'ble Anjani Kumar Mishra, J.

Hon'ble Deepak Verma, J.

Heard learned counsel for the petitioner, Sri Anurag Kumar Pandey, learned counsel for the first informant, learned A.G.A. for the State and perused the record.

The instant petition seeks quashing of the impugned F.I.R. dated 14.12.2021 registered as Case Crime No.0983 of 2021, under Section 302, 120-B I.P.C, Police Station Izzat Nagar, District Bareilly.

Contention of the learned counsel for the petitioner is that the deceased and petitioner were both teachers. The deceased suffered accidental burn injuries and was admitted to the hospital at the instance of the petitioner himself. On her condition deteriorating and for providing ventilator support, she was shifted to a hospital at Bareilly from where she was ultimately referred to Delhi, where she expired on 18.03.2021. After her death, the body was handed over to her father. Six months later, an application under section 156(3) Cr.P.C. was filed by the first informant, whereupon the impugned First Information Report has been registered.

It has also been vehemently argued that prior to filing the application under section 156(3) Cr.P.C., the first informant has made a complaint to the police authorities and that an enquiry was held. The enquiry report which is in favour of the petitioner, has been filed on record.

On the strength of the aforementioned arguments, it has been submitted that the petitioner is entitled to stay of his arrest.

Counsel appearing for the first informant has stated that there was a prior dispute pertaining to demand of dowry and that a compromise was entered into between the parties whereby the deceased started residing with the petitioner. However, even thereafter, the first informant had been telephonically informed by his daughter that she was being harassed for dowry. It has also been submitted that the first informant called his daughter on her mobile phone on 14th March, 2021, which call was received by the petitioner and the first informant was informed

that all was well. The first informant later, on 18.03.2021, received a call from the petitioner, informing him of the death of the deceased. It is contended that no prior information was given to the first informant about the alleged incident and the treatment, which is stated to have taken place at various hospitals.

Upon hearing learned counsel for the parties and upon perusal of the First Information Report, we find that it contains the ingredients of cognizable offence. The First Information Report cannot be quashed on the basis of submissions that has been made by learned counsel for the petitioner which are, in fact, his defence. It is settled law that the defence of the accused cannot be looked into while considering the writ petition seeking quashing of the First Information Report.

Accordingly, the writ petition fails and is, **dismissed**.

Order Date :- 25.2.2022

SKD