

Shahid Ali @ Rabi And 5 Others vs State Of Up And 3 Others on 2 January, 2025

Author: Mahesh Chandra Tripathi

Bench: Mahesh Chandra Tripathi

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:318-DB

Court No. - 42

Case :- CRIMINAL MISC. WRIT PETITION No. - 22413 of 2024

Petitioner :- Shahid Ali @ Rabi and 5 Others

Respondent :- State Of Up And 3 Others

Counsel for Petitioner :- Sunil Kumar Gaur

Counsel for Respondent :- G.A.

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Ms. Nand Prabha Shukla,J.

1. Heard learned counsel for the petitioners, learned AGA for the State and perused the record.
2. Although, the prayer made in this writ petition is to quash the FIR dated 08.10.2024 registered as Case Crime No.0134 of 2024, under Section 3/4 Dowry Prohibition Act, 1961, P.S. Kagaraul, District Agra, but when the matter has been taken up, learned counsel for the petitioners has submitted that all offences, complained of, are punishable only upto seven years and therefore, before effecting the arrest of the petitioners, specific provisions contained in Section 35 (3) to 35 (7) of Bhartiya Nagrika

Suraksha Sanhita, 2023 be strictly complied with in view of law laid down by Hon'ble Apex Court in several judgments.

3. We have perused the FIR, which prima facie discloses cognizable offences against the petitioners and therefore, the prayer made to quash the FIR cannot be entertained in view of law laid down by Hon'ble Apex Court in the cases of State of Telangana Vs. Habib Abdullah Jellani reported in (2017) 2 SCC 779 and Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others reported in (2021) SCC Online SC 315 and as such, we are of the view that no interference is warranted.

4. However, considering the fact that all the offences, complained of, in the impugned FIR, are punishable with a term upto seven years, therefore, in case of effecting the arrest of the petitioners in pursuance of the impugned FIR, it is directed that the respondents/ authorities shall ensure that the specific provisions contained in Section 35 (3) to 35 (7) of Bhartiya Nagrika Suraksha Sanhita, 2023 and the guidelines issued by Hon'ble Apex Court in the case of Arnesh Kumar Vs. State of Bihar reported in (2014) 8 SCC 273 as well as the directions issued in judgement and order dated 28.01.2021 of this Court passed in Criminal Misc. Writ Petition No. 17732 of 2020 (Vimal Kumar and 3 Others Vs. State of U.P. and 3 Others) reported in 2021 (2) ACR 1147, be strictly complied with.

5. With the aforesaid observations, the instant writ petition stands disposed of.

Order Date :- 2.1.2025 RKP