

Lalla Mishra @ Satydev Mishra And Others vs Stat Of U.P. Thru. Prin. Secy. Home Lko ... on 30 August, 2024

Author: Vivek Chaudhary

Bench: Vivek Chaudhary

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2024:AHC-LK0:59439-DB

Court No. - 9

Case :- CRIMINAL MISC. WRIT PETITION No. - 6331 of 2024

Petitioner :- Lalla Mishra @ Satydev Mishra And Others

Respondent :- Stat Of U.P. Thru. Prin. Secy. Home Lko And Others

Counsel for Petitioner :- Prashant Srivastava, Arunendra Nath Mishra

Counsel for Respondent :- G.A.

Hon'ble Vivek Chaudhary, J.

Hon'ble Mohd. Faiz Alam Khan, J.

1. Heard learned counsel for the petitioners, learned A.G.A. appearing for the State/opposite parties and perused the record.
2. This petition seeks issuance of direction in the nature of certiorari for quashing the impugned F.I.R. dated 16.08.2024, bearing Case Crime No. 0373 of 2024, for the offence under Sections 115(2), 352, 351(3) of Bharatiya Nyaya Sanhita, 2023, registered at Police Station Thakurganj District, Lucknow.
3. Learned counsel for the petitioners has submitted that the offences as alleged in FIR have maximum punishment for the term less than seven years imprisonment, whereas, the police is

trying to arrest him, which is against the mandates of Bhartiya Nyaya Sanhita, 2023.

4. Learned Additional Government Advocate appearing for respondent State has given a statement on behalf of investigating agency that because the offence allegedly committed by the petitioners, entails sentence of less than seven years, provisions of Section 35(3) of Bhartiya Nyaya Sanhita, 2023 shall be strictly followed in terms of judgment rendered by Hon'ble Supreme Court of India in a case reported in (2014) 8 SCC 273: Arnesh Kumar vs. State of Bihar and another.

5. Considering the stand of the investigating agency, learned counsel for the petitioners states that let this petition be disposed of in view of the above said facts.

6. Accordingly, this petition is disposed of in view of the provisions of Section 35(3) of Bhartiya Nyaya Sanhita, 2023 and the law as laid down by Apex Court in the case of Arnesh Kumar (supra).

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(Mohd. Faiz Alam Khan, J.) (Vivek Chaudhary, J.) Order Date :- 30.8.2024/Praveen