

In Chamber

Case :- CRIMINAL MISC. WRIT PETITION No. - 5740 of 2023

Petitioner :- Mohd. Farhan

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Tabrez Ahmad, Aishwarya Pratap Singh, Sanjeet Kumar Dubey

Counsel for Respondent :- G.A.

Hon'ble Anjani Kumar Mishra, J.

Hon'ble Ms. Nand Prabha Shukla, J.

Heard Shri Aishwarya Pratap Singh, learned counsel for the petitioner and Shri Manish Goel, learned Additional Advocate General assisted by Shri A. Sand for the State.

The writ petition seeks quashing of the F.I.R. dated 01.04.2023 giving rise to Case Crime No.0082 of 2022, under Section 504 I.P.C. & Section 66 of the Information Technology (Amendment) Act, 2008, Police Station- Kareli, District- Nagar (Commissionerate Prayagraj).

The contention of learned counsel for the petitioner is that from the allegations in the FIR, no offence under Section 504 I.P.C. or Section 66 of the Information Technology (Amendment) Act, 2008 is made out. The statement attributed to the petitioner which is the basis of the FIR is that the Prime Minister has been called for a virus which requires an urgent antidote.

It is submitted that the words, in any case cannot be said to be derogatory or indecent or to be such, which would fall within the purview of Section 504 I.P.C.

Section 504 I.P.C. is attracted where any person intentionally insults another intending or knowing that the insult is likely to cause the person insulted to break the public peace or to commit an offence. It is submitted that the comment in any case was a political comment and was not made to provoke the Prime Minister to break the public peace or to commit an offence.

Shri Manish Goel, submitted that the petitioner in the writ petition claims to be a journalist. He has not denied the allegations in the FIR that he is the spokesman of a political party and was making a

political statement, which has been made viral.

It has next been submitted that the words attributed to the petitioner stand admitted in the writ petition. A cognizable offence is therefore, disclosed and the petition merits dismissal.

Prima facie, the words attribute to the petitioner do not fall within the purview of Section 504 I.P.C. and, therefore, the matter requires consideration.

Learned counsel for the respondents may file counter affidavit within three weeks.

Petitioner will have two weeks thereafter to file rejoinder affidavit.

List thereafter.

Till the next date of listing, the petitioner may not be arrested consequent to the impugned F.I.R. dated 01.04.2023 giving rise to Case Crime No.0082 of 2022, under Section 504 I.P.C. & Section 66 of the Information Technology (Amendment) Act, 2008, Police Station- Kareli, District- Nagar (Commissionerate Prayagraj).

This protection shall be available either till the next listing or till submission of police report under Section 173(2) Cr.P.C., whichever is earlier. It is also provided that the petitioner will fully cooperate in the investigation, failing which they shall not be entitled to the benefit of this order.

Order Date :- 12.6.2023

Mayank