

Court No. - 80

Case :- CRIMINAL MISC. WRIT PETITION No. - 25983 of 2017

Petitioner :- Kanhaia Jaiswal

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

Counsel for Petitioner :- Anil Kumar Tiwari

Counsel for Respondent :- G.A.

Hon'ble Subhash Chandra Sharma,J.

Sri Dharmendra Prasad, Advocate, filed his Vakalatnama on behalf of opposite party No.3 is taken on record.

Heard learned counsel for the petitioner, learned counsel for respondent as well as learned A.G.A and perused the record.

This criminal misc. writ petition under Art. 226 Constitution of India has been filed with a prayer to issue a writ order or direction in the nature of certiorari quashing the impugned order dated 1.8.2017 passed by Additional Session Judge (Court No.16) Deoria in Revision No. 11 of 2017 and order dated 10.1.2017 passed by Additional Chief Judicial Magistrate, Court No. 19, Droria in Case No. 295 of 2016.

Learned counsel for the petitioner submits that in this case the respondent No.3 got employment in BSF department on the basis of forged document regarding which he made a complaint to the concerned department but no action was taken, therefore, he filed an application under section 156(3) Cr.P.C before the learned Magistrate but it was rejected by order dated 10.1.2017 holding that he had no locus standi to file such application. It is further submitted that the opposite party No.3 got employment by using forged papers so the matter requires to be investigated by the police but this fact was not taken into consideration by the learned court concerned and the order in question was passed without applying its judicial mind, therefore, request to set aside the order and allow this petition. It is also submitted that the revision against the order passed by the learned Magistrate was also filed but it was dismissed illegally.

Learned counsel for opposite party No.3 as well as learned A.G.A for the State opposed the prayer as aforesaid and contended that in this case the petitioner has filed the present application before the learned court concerned only for the purpose of making harassment of the opposite party No.3 who is working in BSF department on the basis of his genuine papers. Once he made complaint to the concerned department, it would have been enquired by the concerned department.

Considering the facts and circumstances of the case,

submissions made by the learned counsel for the petitioners as well as learned A.G.A and perusal of record, there appears no any illegality or impropriety in the orders dated 10.1.2017 passed by Additional Chief Judicial Magistrate, Deoria as well as order dated 01.8.2017 passed by learned Additional Sessions Judge, Deoria but this petition being devoid of merit and is liable to be ***dismissed***.

This writ petition is ***dismissed***.

Order Date :- 7.12.2023

G.S