

Court No. - 1

Case :- MATTERS UNDER ARTICLE 227 No. - 8512 of 2023

Petitioner :- Mohd. Haneef

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

Counsel for Petitioner :- Amit Kumar Srivastava,Dinesh Kumar

Counsel for Respondent :- CSC

Hon'ble Jayant Banerji,J.

1. Heard learned counsel for the petitioner.
2. This petition has been filed challenging the order dated 10.7.2023, passed by the Additional Chief Metropolitan Magistrate-III, Kanpur Nagar, whereby the application filed by the petitioner under Section 452 Cr.P.C was rejected on the ground of its being not maintainable.
3. The contention of the learned counsel for the petitioner is that he is owner of a vehicle/truck bearing No. UP-71 T-9137 which was forcibly taken away from him and was parked in the police station Sachendi. It is stated that thereafter a report dated 7.6.2023 was submitted by the Station House Officer, P.S. Sachendi, Kanpur Nagar stating that no such vehicle is parked in the premises of the police station Sachendi. However, that report stated that at present the vehicle is parked in Kanpur Security Kisan Nagar Yard and the Yard Sanchalak had informed that there were dues with regard to the vehicle payable to a finance company, namely, Daimler Finance Company because of which, the vehicle was impounded. It is stated that on one hand, there is report that the vehicle is parked in the police station Sachendi, Kanpur Nagar, but on the other hand, in the order impugned, the Additional Chief Metropolitan Magistrate states that the vehicle is parked in Kanpur Security Kisan Nagar Yard. It is stated that there is no clarity as to where his vehicle is parked.
4. A perusal of the order impugned reflects that the vehicle is parked at Kanpur Security Kisan Nagar Yard. It has not been stated by the learned counsel for the petitioner at the bar that the vehicle is not parked at the place mentioned in the impugned order.
5. Learned Standing Counsel has correctly pointed out that an application under Section 452 would only be maintainable where the proceedings of inquiry or trial in a criminal court is pending or contemplated.

6. I see no error in the order impugned dated 10.7.2023, passed by the Additional Chief Metropolitan Magistrate-III, Kanpur Nagar. This petition is misconceived and is, accordingly, **dismissed**.

Order Date :- 27.10.2023

sfa/

(Jayant Banerji, J)