

**Court No. - 45**

**Case :-** CRIMINAL MISC. WRIT PETITION No. - 14155 of 2023

**Petitioner :-** Sanjana Sharma @ Rakhi

**Respondent :-** Union Of India And 4 Others

**Counsel for Petitioner :-** Suyash Mehrotra, Sudhir Mehrotra, Virendra Kumar Mishra

**Counsel for Respondent :-** A.S.G.I., G.A., Manu Vardhana

**Hon'ble Vivek Kumar Birla, J.**

**Hon'ble Vinod Diwakar, J.**

1. Heard Shri Sudhir Mehrotra, learned counsel for the petitioner as well as Shri A.K. Sand, learned Government Advocate along with Shri Ratan Singh, learned AGA for the State respondents and Shri Manu Vardhana, learned counsel for the respondent no. 1- Union of India and perused the record.

2. Present petition has been filed with the following prayers:

*"(i) Issue a writ order or direction in the nature of mandamus commanding/directing the respondent no. 1 and 2 to entrust the investigation of present crime to C.B.I. or to constitute S.I.T. for investigating the crime in question as well as matters relating to illegal activities carrying in the Ashram itself by respondent no. 5 Chandra Mohan.*

*(ii) Issue a writ order or direction in the nature of mandamus directing the respondents no. 1 and 2 to pass appropriate orders on the application dated 15.08.2023.*

*(iii) Issue a writ order or direction in the nature of mandamus directing the respondent no. 4/Investigating Officer, may be directed to submit police report without the leave of this Hon'ble Court."*

3. On 4.10.2023 following order was passed:

*"1. Heard Shri Sudhir Mehrotra, learned counsel for the petitioner, Shri G.P. Singh, learned AGA for the State respondent, and Shri Manu Vardhana, learned counsel for the Union of India.*

*2. The present petition has been filed with a prayer to direct respondents no. 1 and 2 to entrust the investigation of the present crime to CBI or to constitute an SIT for investigating the crime in question, and matters relating to illegal activities being carried out in the Ashram by respondent no. 5, Guruji Chandra Mohan.*

3. In the instant case, the complainant moved an application dated 28.7.2023 under Section 156 (3) CrPC in Case Crime No. 214 of 2023 at P.S. Daurala, District Meerut, under Sections 328, 376, 506 I.P.C. before the concerned Magistrate for conducting the fair investigation in the matter on the strength of several judgements of Hon'ble Apex Court, in which a report was called for from the concerned PS Daurala, Meerut. The concerned police station submitted the status report dated 9.8.2023 before the learned Judicial Magistrate stating therein that the statement of the informant under Section 161 CrPC is recorded, conducted a medical of the victim and recorded her statement under Section 164 CrPC, as well.

4. In such view of the matter, the application was disposed of, directing the concerned police station to conduct a fair investigation in accordance with the law, as per the order dated 30.6.2023.

5. However, it is now being argued that the ongoing investigation is still not being conducted in a fair manner. This concern arises from the previous history of respondent no. 5, in which, despite statements made under Section 164 of the CrPC, final reports were submitted. This raises the apprehension that a similar final report may also be submitted in the present case, indicating a lack of fair investigation by the local police.

6. As a result, there is a prayer to entrust the investigation to the Central Bureau of Investigation (CBI) or to constitute a Special Investigation Team (SIT) to look into the alleged crime. The counsel has also drawn the Court's attention to paragraph 13 of the paper book, where numerous First Information Reports (FIRs) have been registered against the former disciples of respondent no. 5 at various locations in Uttar Pradesh, apparently at the instigation of the self-styled godman, wherever he wields influence.

7. Shri G.P. Singh, learned AGA, on instructions, submitted that the investigation has been concluded on 15.8.2023 in this case, and the report has already been forwarded to the Court concerned on 03.10.2023.

8. We have gone through the statement of the victim recorded under Section 164 Cr.P.C. and the material placed on record.

9. After hearing the counsel for the petitioners and on perusal of records, we are of the opinion that the higher authorities must look into the entire record comprising final report, statement recorded under Section 164 Cr.P.C., and other material available on record, and form their opinion as to whether further investigation is required or not in the present case.

10. A just investigation and fair trial are fundamental components of the constitutional rights protected under Articles 20 and 21 of the Indian Constitution. The cornerstone of the rule of law is that an investigation must be conducted in a manner that is both fair and transparent. A deficient investigation can erode the trust placed by society in the police department. In cases related to sexual offenses, critical elements such as the victim's statement, the medico-legal report, Call Data Records (CDR), and the surrounding scientific and forensic evidence are vital in ascertaining the truth.

11. *Given the facts and circumstances of this case, as well as the serious nature of the allegations supported by the statement recorded under Section 164 of the Criminal Procedure Code, and considering the prior history of respondent no. 5 (the accused), we hereby instruct the learned A.G.A. to share a copy of this order with the Director General of Police, Uttar Pradesh, and also with respondent no. 2, the State of Uttar Pradesh, through the Principal Secretary (Home), Government of Uttar Pradesh. They are to thoroughly review the entire case record and form their opinions on the matter. These authorities are then directed to submit their respective reports to this Court by 1.11.2023.*

12. *Needless to say that, respondent no. 2-State of UP through its Principal Secretary (Home), Govt. of UP, Lucknow and the Director General of Police, UP, Lucknow shall assess the case independently without being swayed by any observations or comments made by this court hereinabove.*

13. *Put up this case on 1.11.2023 as fresh, along with the report received from the office of respondent no. 2- State of UP through Principal Secretary (Home) Govt of UP, Lucknow as well as from the office of Director General of Police, UP, Lucknow so as to enable this Court to assess whether the Director General of Police and the Senior Superintendent of Police Meerut have duly considered and applied their mind in the right perspective."*

4. Pursuant to the aforesaid order, two affidavits of compliance were filed on behalf of the Principal Secretary (Home) Govt. of U.P. and Director General of Police, Lucknow, today in Court. On perusal of the aforesaid affidavit dated 31.10.2023 it transpires that the Investigating Officer has elaborately dealt with the contentions raised by the petitioner in the instant petition. The investigating officer after conducting a fair and unbiased investigation and evaluating the surrounding circumstances, and after recording the statements of witnesses filed the closure report. We are satisfied with the contents of the report prepared by ACS (Home), which is part of the affidavits. The instant impugned FIR has been registered after an inordinate delay of four years in such an offence without any plausible explanation; the mother-father of the victim, and initially the victim herself have not supported the prosecution version. It is only after a long delay when the victim's husband came out from jail on bail in a rape case, the impugned FIR was registered against the private respondent with an ulterior motive, it seems. The circumstances under which the impugned FIR was registered, and also the acrimonious and vindictive relationship subsequently developed between the husband of the victim and respondent no. 4, the impugned FIR has been lodged, the same is also part of the report prepared by the ACS (Home). Alternatively, an equal and efficacious remedy is available to the petitioner to challenge the closure report before the trial court.

5. In view of the affidavits and the investigation conducted so far,

we are of the view, no case for transfer of the investigation is made out. Additionally, the petitioner could not establish any malice on the part of the investigating agency to substantiate grounds mentioned in the writ petition.

6. The observation made hereinabove shall not have any consequences on the case's merit. The observations are made solely for the disposal of the instant petition.

7. The petition is devoid of merit and, hence, dismissed with the liberty to the petitioner to avail legal remedies as may be available under law to agitate her grievances before the trial court.

**Order Date :- 1.11.2023**

Abhishek