

Court No. - 40

Case :- WRIT - C No. - 37630 of 2023

Petitioner :- Smt. Jalekha Khatoon

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

Counsel for Petitioner :- Piyush Patel, Pradeep Kumar

Counsel for Respondent :- CSC

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

1. Heard learned counsel for the petitioner and Shri S.C. Upadhyay, learned Standing Counsel for the State.

2. The instant writ petition is preferred by the petitioner, who is a complainant, seeking a direction to District Welfare Officer, Maharajganj-respondent no.2 to ask the respondent no.3 and 4 (private respondents) to return the money, which was fraudulently obtained by the petitioner under the scheme of Chief Minister Group Marriage 2022-2023. Further it is prayed to command the respondent no.2 to take appropriate action against the respondent nos.3 and 4 for filing false affidavit regarding age of respondent no.4 as per law.

3. Shri S.C. Upadhyay, learned Standing Counsel raised an objection regarding maintainability of the writ petition on the ground that the third respondent namely Smt. Kalawati w/o Nagendra Kannaujiya, R/o Village and Post Neta Surhuruwa, Block Sadar, Police Station Kotwali, District Maharajganj had lodged a First Information Report against the petitioner's son on 10.02.2023, which was registered as Case Crime No.84/2023 under Section 363A, 504, 506 IPC, P.S. Kotwali, District Maharajganj, wherein, she has alleged that the petitioner's son has eloped her minor daughter i.e. respondent no.4. He submits that once the criminal proceeding is drawn against the son of petitioner, the relief as has been prayed for cannot be accorded, otherwise the same would have serious ramification in the on-going criminal proceeding. Moreover, the complainant has no locus to file the writ petition as it is well settled that on behalf of complainant, a writ petition is ordinarily not maintainable. (Ref. ***Amin Khan v. State of U.P., 2008 (2) AWC 2002 and Special Appeal No.382 of 2008 (Guru Prasad Yadav v. State of U.P. & Ors.)*** decided on 13.3.2008.

4. Once such an objection is raised, we have the occasion to peruse the record and find substance in the objection so raised by the petitioner. Normally, at the behest of complainant, the writ petition is not maintainable and once there is serious allegations against son of petitioner, then the present writ proceeding *prima facie* appears to be preferred with intent to circumvent the criminal proceeding. Considering the objection so raised by learned Standing Counsel, we are not inclined to entertain the writ petition.

5. Consequently, the writ petition is ***dismissed***.

Order Date :- 1.11.2023

A. Pandey