

Court No. - 67

Case :- CRIMINAL MISC. WRIT PETITION No. - 18471 of 2023

Petitioner :- Syed Tarik Umar

Respondent :- State Of U.P. And 5 Others

Counsel for Petitioner :- Dinesh Kumar

Counsel for Respondent :- G.A.

Hon'ble Rahul Chaturvedi,J.

Hon'ble Mohd. Azhar Husain Idrisi,J.

Heard Sri Niraj Srivastava, learned counsel for petitioner and learned A.G.A. for State. Perused the record.

The present petition has been filed praying for the following main reliefs:

"(i) Issue a writ, order or direction, in the nature of mandamus directing the respondent nos.2 and 3 to ensure the arrest of accused respondent nos. 4, 5 & 6 and conclusion of the investigation in pursuance to the F.I.R. dated 03.02.2023 registered in Case Crime no. 0026 of 2023, under Sections 420, 467, 468, 471, 323, 504, 506 & 120-B of I.P.C., Police Station Babupurwa, District Kanpur Nagar within stipulated time in fair & impartial manner, so that justice may be done.

(ii) Issue any other writ, order or direction, which this Hon'ble Court may deem fit and proper in the circumstantial of the case.

(iii) Award the cost of the petition in favour of the petitioner."

Learned counsel for the petitioner submits that way back on 03.02.2023, informant of this case Syed Tarik Umar has lodged FIR against three name accused persons namely Rakesh Kumar Awasthi, Manoj Kumar Awasthi and Chand Khan @ Chand Pistol. Police after investigation from the petitioner has submitted its closer report in the matter. When such closer report was challenged by the informant/ petitioner vide order dated 12.07.2023 the learned C.M.M., Court No. 9, Kanpur Nagar passed the following order:-

"थाना बाबूपुरवा की पुलिस द्वारा प्रेषित अंतिम रिपोर्ट संख्या 18/2023 दिनांकित 12.03.2023 बावत अपराध संख्या 26/2023, उपरोक्त तथ्यों के आधार पर प्रकरण में इस आशय से अस्वीकार की जाती है कि प्रभारी निरीक्षक

थाना बाबूपुरवा मामले में घटना से सम्बंधित समस्त स्वतंत्र साक्षियों का बयान अंकित कराते हुए निष्पक्ष एवं गुणवत्ता पूर्ण अग्रिम विवेचना करना सुनिश्चित करें। आदेश की एक प्रति पुलिस कमिश्नर कानपुर नगर को इस आशय से प्रेषित की जाए कि मामले में पूर्व विवेचक द्वारा निष्पक्ष एवं विश्वसनीय विवेचना न किये जाने पर समुचित विभागीय कार्यवाही करना सुनिश्चित करें पत्रावली अग्रिम विवेचना के उपरांत पुलिस आकख्या प्रस्तुत किये जाने की कृपा की जाये।"

Learned counsel for the appellant contended that I.O. of the case has not progressing the case.

At this juncture, we are not inclined to exercise our power under Article 226 of the Constitution of India. It would amount to multiplicity of the forum.

Let the C.M.M., Court No.9, Kanpur Nagar take the call in the matter and pass appropriate order against the concerned I.O. and his Senior Officers, if such an application is made by the petitioner.

With the above observation, the writ petition is **disposed of**.

Order Date :- 28.11.2023

Israr