

Neutral Citation No. - 2023:AHC-LKO:40497-DB

Court No. - 9

Case :- CRIMINAL MISC. WRIT PETITION No. - 4103 of 2023

Petitioner :- Sarita Gupta

Respondent :- State Of U.P. Thru. Prin. Secy. Home, Lko. And
Others

Counsel for Petitioner :- Rakesh Kumar Modanwal

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed,J.

Hon'ble Umesh Chandra Sharma,J.

1. Heard Sri Rakesh Kumar Modanwal, learned counsel for the petitioner as well as Sri Badrul Hasan, learned A.G.A. for the State-opposite party Nos. 1 to 3 and perused the record.

2. The instant petition has been filed with the following relief (s):

"(i) issue a writ, order or direction in the nature of ad interim mandamus directing the respondent nos. 2 and 3 to conduct fair and impartial investigation in pursuance of the F.I.R. dated 30.07.2022 of Case Crime No. 0523 of 2022, under Sections 363, 506 I.P.C., Police Station Lalganj, District Pratapgarh.

(ii) Issue a writ order or direction in the nature of Mandamus directing the respondents authorities to take necessary action against the accused persons i.e. respondent no. 4, 5 and 6 and procuring their arrest in pursuance of the F.I.R. in the interest of justice, otherwise the petitioner will suffer irreparable loss and injury.

(iii) Issue a writ order or direction in the nature of Mandamus directing the respondent no. 2 and 3 to decide the representation of the petitioner dated 03.4.2023 in accordance with law.

(iv) Issue a writ order or direction in the nature of Mandamus directing the respondent No.2 and 3 to protect the life and liberty of the petitioner and his entire family who is living in terror and to save them from the clutches of the accused persons.”

3. Learned counsel for the petitioner submits that the investigating officer is not properly investigating the matter and collusively not taking action against the accused.

Be that as it may, the petitioner has a remedy under Section 156(3), Cr.P.C. to move an appropriate application before the concerned Magistrate. This legal position has also been clarified by this court vide **judgment dated 27.01.2021 in Criminal Misc. Writ Petition No.15692 of 2020 (Ajay Kumar Pandey vs. State of U.P. and others).**

4. In view of the aforesaid, we do not find any good reason to entertain this writ petition. Therefore, without expressing any opinion on merits of the case of the petitioner, this writ petition is **disposed of** leaving it open to the petitioner to move an appropriate application before the concerned Magistrate. In the event such an application is filed by the petitioner, it is expected that the concerned Magistrate shall proceed in accordance with law.

Order Date :- **08.06.2023**

Arvind