

Court No. - 9

Case :- CRIMINAL MISC. WRIT PETITION No. - 4460 of 2023

Petitioner :- Lalji

Respondent :- State Of U.P. Thru. Secy. Home Deptt. And Others

Counsel for Petitioner :- Kaushal Kishore Tewari

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed,J.

Hon'ble Umesh Chandra Sharma,J.

1. Heard Shri Kaushal Kishore Tewari, the learned counsel for the petitioner and Shri Badrul Hasan, the learned A.G.A.-I for the State-respondent Nos. 1 to 4.

2. This writ petition has been filed with the following prayer:

"(a) Issue writ, order or direction in the nature of mandamus commanding to the opposite parties 1 to 3 to search the victim and investigate the case bearing case crime no- 0126/2023 u/s 363 I.P.C. P.S. Mitauli District Lakhimpur Kheri as early as possible.

(b) Issue writ, order or direction in the nature of mandamus commanding to the opp. parties to conduct fare investigation.

(c) Issue any other order or direction as this hon'ble court may deem fit and proper in the nature and circumstances of the case.

(d) Allow the instant writ petition with cost."

3. Learned counsel for the petitioner submits that earlier accused persons approached this Court by moving a writ petition bearing Criminal Misc. Writ Petition No. 2626 of 2023, wherein a coordinate Bench of this Court while dismissing the said writ petition vide order dated 07.04.2023 gave certain directions to the Investigating Officer of the case, but the concerned Investigating Officer has not complied with the said order. The operative part of the order dated 07.04.2023 passed in the aforesaid writ petition reads as under:

"Writ petition is dismissed with direction to the Investigating Officer to conduct an inquiry with regard to date of birth of the petitioner no.2 and also, if necessary, authenticity of the documents filed along with the writ petition and then take appropriate action by adding relevant sections of the IPC in the charge sheet and take appropriate action in accordance with law."

4. Learned counsel for the petitioner further submits that the girl is minor and she has not yet been recovered by the Investigating Officer, which shows laches on the part of the Investigating Officer and also disobeying the direction of this Court.

5. Learned A.G.A.-I submits that there was no need to the petitioner for filing the present writ petition when there is a positive direction of this Court vide order dated 07.04.2023 which is binding upon the concerned Investigating Officer. If the Investigating Officer is not complying with the said order, then the petitioner has remedy before the competent court for contempt petition or he may avail other remedy in accordance with law.

6. After considering the submissions as advanced by the learned counsel for the parties and after perusal of record, we are of the view that as the coordinate Bench of this Court has already passed a positive order in Criminal Misc. Writ Petition No. 2626 of 2023 vide order dated 07.04.2023, therefore, there is no justification to pass a fresh order or giving fresh direction to the concerned Investigating Officer, but as the minor girl has not yet been recovered, we hope and trust that the concerned Investigating Officer shall make compliance of the earlier order dated 07.04.2023 passed by this Court in its letter and spirit.

7. With the above direction/ observation, the present writ petition is finally **disposed of**.

Order Date :- 9.6.2023

Mustaqeem