

Court No. - 9

Case :- CRIMINAL MISC. WRIT PETITION No. - 4456 of 2023

Petitioner :- Dayaram Alias Dayaram Manjha

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

Counsel for Petitioner :- Amit Kumar Awasthi, Anand Kumar Shukla

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed, J.

Hon'ble Umesh Chandra Sharma, J.

1. Heard Shri Amit Kumar Awasthi, learned counsel for the petitioner as well as Shri Badrul Hasan, the learned A.G.A.-I for the State-opposite party Nos. 1 to 3 and perused the record.

2. The instant petition has been filed with the following prayer:

"(i) Issue a writ, order or direction in the nature of mandamus directing the respondent No. 2 to take strict action against the accused person, in respect of F.I.R. No. 81/2023, U/s 306 I.P.C., P.S.-Neemgaon, District-Kheri.

(ii) Issue a writ, order or direction in the nature of mandamus directing the Opp. parties for fair investigation in connect with the aforesaid case.

(iii) Issue any other writ or directions which the Hon'ble Court may deem fit just and proper in the circumstances of the case be also awarded to the Petitioner against the Opp. parties.

(iv) To award the cost of this petition to the Petitioner."

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.

4. 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 and order dated 27.01.2021 passed in **Criminal Misc. Writ Petition No. 15692 of 2020 (Ajay Kumar Pandey vs. State of U.P. and others)**.

5. 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 finally **disposed of** leaving it open to the petitioner to move an appropriate application before the concerned Magistrate provided 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 :- 9.6.2023

Mustaqeem