

Court No. - 4

Case :- CONTEMPT APPLICATION (CIVIL) No. - 3537 of 2023

Applicant :- Gyan Kumar

Opposite Party :- Shri Satpal Anti Superintendent Of Police, Pratapgarh And Others

Counsel for Applicant :- Lalji Yadav

Hon'ble Rajesh Singh Chauhan,J.

1. Heard.

2. This Court has passed the order dated 12.10.2023, which reads as under:-

"1. Heard learned counsel for the petitioner.

2. Learned counsel for the petitioner has drawn attention of this Court towards Annexure No.1 of the contempt petition, which is an order dated 04.04.2022 passed by this Court in Criminal Misc. Writ Petition No.1695 of 2022 (Gyan Kumar vs. State of U.P. & others). When the aforesaid directions has not been complied with, the same petitioner has again filed another writ petition bearing Criminal Misc. Writ Petition No.5798 of 2023 (Gyan Kumar vs. State of U.P. & others) wherein this Court has passed order dated 28.07.2023, which reads as under:-

"1. Heard learned counsel for the petitioner and learned A.G.A. for the State-respondents.

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

"(i) issue a writ, order or direction in the nature of mandamus commanding the opposite party No.2 to 4 to conclude the investigation of the F.I.R. No.0698 of 2020 Under section 419, 420, 504, 384 I.P.C., Police Station Lalganj, District- Pratapgarh and thereafter sent the report under section 173 (2) Cr.P.C. against the opposite party No.5 to 7 before the competent court within stipulated period."

3. It has been submitted by learned counsel for the petitioner that the petitioner had earlier approached this Court in Writ Petition No.1659 of 2022: Gyan Kumar Vs. State of U.P. and others. This Court by order dated 04.04.2022 had disposed of the petition by directing the Police to complete the investigation in a fair manner. The relevant portion of order dated 04.04.2022 is quoted hereinbelow:-

"After having heard the learned counsel for the parties present and perused the impugned F.I.R. as well as the other material brought on record, without expressing any opinion on the merit, we dispose of this writ petition by observing that fair investigation is implicit in all criminal cases and it must be transparent. The investigation should not be tainted

with any bias and it should be beyond prejudice as well. Fair investigation is right of both the informant as well as the accused. In this case, the investigating officer concerned should act promptly and expeditiously with the investigation without causing/incurring unnecessary delay."

4. However, despite such order passed by this Court, the investigation has not been concluded and report has been sent under Section 173 (2) of the Cr.P.C., therefore, this petition has been filed with the aforementioned prayer.

5. This Court has perused the order dated 04.04.2022 and finds that the petitioner had initially approached this Court praying for writ in the nature of Mandamus commanding the respondent no.3 to conduct the fair and effective investigation in F.I.R. No.0698 of 2020 under Sections 384, 504, 420, 419 I.P.C. at Police Station Lalganj District Pratapgarh.

6. Now, the instant writ petition has been filed with the prayer, which is not maintainable as it is a second writ petition for the same cause of action. If the petitioner is aggrieved by the non-compliance of the order dated 04.04.2022, appropriate remedy for the petitioner is to file a contempt application.

7. The writ petition stands dismissed."

3. Learned counsel for the petitioner has further submitted that despite the aforesaid two orders having been passed, the Investigating Officer is not taking any steps to conclude the investigation.

4. Learned counsel for the petitioner is directed to provide two copies of the contempt petition to Sri Sunil Bajpai, learned Additional Chief Standing Counsel, who shall seek specific written instructions from the opposite party Nos.2 & 3 as to whether the investigation has been concluded and the police report under Section 173 (2) Cr.P.C. has been filed.

5. If the police report has not been filed till date, the specific reason shall be assigned.

6. List this case on 20.11.2023 as fresh."

3. In compliance of the aforesaid order, Sri Vinayak Saxena, learned Standing Counsel has produced a copy of instructions letter dated 28.10.2023 along with relevant correspondences, which are taken on record.

4. As pr the aforesaid instructions letter, after carrying out the required formalities the paper-book has been produced/ put up before the Court of Judicial Magistrate, Lalganj, District-Pratapgarh on 25.10.2023.

5. In the wake of the aforesaid development, nothing remains to be adjudicated in the instant contempt petition.

6. Accordingly, the instant contempt petition is ***dismissed***.

7. However, it is always open for the petitioner to take appropriate steps under law before appropriate court of law.

[Rajesh Singh Chauhan,J.]

Order Date :- 13.12.2023

Suresh/