

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 7842 of 2023

Petitioner :- Vijay Kumar Pathak

Respondent :- State U.P. Thru. Secy. Home Govt. Civil Sectr. Lko. And Others

Counsel for Petitioner :- Dilip Kumar Pandey

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Narendra Kumar Johari,J.

1. Heard learned counsel for the petitioner and learned A.G.A. for the State Respondents.

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

"[I] Issue a writ, order or direction in the nature of Mandamus commanding the opposite parties to protect the personal liberty of the petitioner by restraining the opposite parties to stop oral summoning the petitioner to visit police station without any written notice.

[II] Issue a writ, order or direction in the nature of Mandamus commanding the opposite parties to decide the application dated 21.09.2023 by speaking order to protect the personal liberty and civil right of petitioner."

3. The allegations of the petitioner in the writ petition is that the Police of Police Station, PGI, Lucknow East is harassing the petitioner repeatedly. The Police Chowki In-charge of ELDECO had called the petitioner on 02.09.2023 on his phone and directed him to reach the Police Chowki, ELDECO. The petitioner was made to sit at Police Chowki, ELDECO for a longtime and then permitted to go. The petitioner was later on called on 13.09.2023 by the Police who visited his house and asked his family members to send the petitioner to the Police Station without providing any notice or summons in this regard. The Police again approached the house of the petitioner on 19.09.2023 and directed the family members that the petitioner should come to the Police Station. No reason was assigned as to why the petitioner was being repeatedly summoned to the Police Station. The Police has no authority to call a citizen to the Police Station unless he is an accused. No notice under

Section 41(A) of the Cr.P.C. has also been served upon the petitioner.

4. Learned A.G.A. for the State Respondent on the basis of instructions sent by Sub-Inspector of Police, Police Station-PGI, District-Lucknow states that the F.I.R. No. 631 of 2023 under Sections 420, 504, 506 of the I.P.C. has been registered on 05.10.2023 and during the course of investigation, the petitioner has been called.

5. Learned counsel for the petitioner submits that the F.I.R. has been lodged, after notice of the writ petition was served upon the opposite parties.

6. Learned A.G.A. for the State Respondents on the basis of instructions says that the F.I.R. has been lodged later on, but the application was submitted by the complainant/informant, namely, Hanumant Niwas Pathak S/o Late Ambika Prasad Pathak on 02.09.2023.

7. This writ petition is ***disposed of*** with a liberty to the petitioner to approach the appropriate forum

Order Date :- 10.10.2023

Darpan Sharma