

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 8936 of 2022

Petitioner :- Vikash Chandra

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

Counsel for Petitioner :- Onkar Pandey, Asok Pande

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra, J.

Hon'ble Narendra Kumar Johari, J.

Heard Sri Asok Pande, learned counsel for the petitioner, learned AGA who appears on behalf of State-respondents and perused the record.

Sri Asok Pande, learned counsel for the petitioner has pointed out prayer clause in the writ petition and the order passed earlier by this Court on 29.11.2022 which is being quoted hereinbelow:

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

By means of this writ petition, petitioner has assailed the F.I.R. No. 0589 of 2021 under Sections 500, 504 & 506 I.P.C. Police Station PGI, District Lucknow.

The petitioner has also raised the ground-A which reads as under:

"Because the matter relates to District Unnao and so the F.I.R. at Police Station PGI District Lucknow was wrongly registered and is being investigated without any authority of law, hence the F.I.R. is liable to be quashed by this Court on this ground alone."

However, learned counsel for the petitioner has stated that the petitioner is cooperating in the investigation pursuant to the notice being issued under Section 41-A Cr.P.C.

Let counter affidavit be filed within a period of four weeks.

Rejoinder affidavit, if any, may be filed within one week thereafter.

List this case in the week commencing 09th January, 2023."

It has been submitted by the learned counsel for the petitioner that only a short counter affidavit has been filed

by the respondents, no parawise reply has been filed. In the said short counter affidavit, it has been stated that charge sheet was prepared on 28.11.2022 and filed in court concerned on 9.1.2023. It has further been submitted that no reply having been given to the query of the court regarding maintainability of the investigation in pursuance of the FIR lodged in a different history.

This Court has perused the order passed by this Court dated 29.11.2022, it appears that charge sheet was prepared even before the order dated 29.11.2022. On 28.11.2022 the investigation was completed before this Court passed the order. This Court has also not put any query to the respondents with regard to the argument raised by the counsel for the petitioner in its order dated 29.11.2022.

Since the charge sheet has been prepared by the Investigating Officer, it is presumed that sufficient evidence has been collected and filed with the charge sheet before the Trial Court for its evaluation, therefore, this Court feels it to be inappropriate to interfere at this stage.

The writ petition is **dismissed** with liberty to the petitioner to approach the Competent Court for raising their challenge to the charge-sheet.

Interim order, if any, stands vacated.

Order Date :- 24.11.2023

AKK