

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 8079 of 2023

Petitioner :- Zapada Komal Ben Alias Zapad Komal Paba And Another

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

Counsel for Petitioner :- Shivam Tiwari, Hari Om Tiwari, Rahul Singh

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra, J.

Hon'ble Karunesh Singh Pawar, J.

1) Heard learned counsel for the petitioners and learned A.G.A. who appears on behalf of the State Respondents.

(2) This petition has been filed with the following main prayers:-

"Issue a Writ, order or direction in the nature of Mandamus for commanding and directing to the opposite party no. 3 and 4 not to harass and interference in the peaceful life of the petitioners, in the interest of justice."

(3) This Court has found from the perusal of judgement rendered in ***Lata Singh Vs. State of U.P. and another, 2006 (5) SCC 475***, wherein the appellants had approached the Supreme Court against the police harassment because of F.I.R. being lodged by the brother of appellant no.1.

(4) In the case of the petitioners, there is no F.I.R. lodged. The police cannot be presumed to harass the petitioner only under the influence of the private respondent no.4. The action of Police is governed by the provision of Code of Criminal Procedure 1973. Particularly, Chapter XII of the Code makes provision for information to police and their power to investigate. In absence of any proof of such information regarding which the provision has been made under Section 154 and 155 Cr.P.C., it will not be justified to grant a blanket protection to the petitioners as prayed.

(5) This writ petition is disposed of with a direction to the petitioners that in case they are being threatened by their family members they may file an application under Section 154(2) or 154(3) of the Cr.P.C. before the Police Station/Superintendent of Police concerned, or move an application under Section 156

(3) before the Magistrate concerned or file a complaint case under Section 200 of the Cr.P.C. before the authorities concerned.

Order Date :- 18.10.2023
R.C.