

Court No. - 9

Case :- CRIMINAL MISC. WRIT PETITION No. - 8301 of 2023

Petitioner :- Rahul Agarwal And Another

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

Counsel for Petitioner :- Agendra Sinha

Counsel for Respondent :- G.A.

Hon'ble Rajan Roy,J.

Hon'ble Ajai Kumar Srivastava-I,J.

Heard.

The petitioner has filed this writ petition seeking the following relief:-

"To issue a Writ of Mandamus or its likewise whereby directing the Chief Judicial Magistrate, Lakhimpur, Kheri to dismiss the application filed under Section 156(3) Cr.P.C. filed by him with personal vendetta by abusing the process of law and creating unwanted litigation unnecessarily."

The contention of learned Counsel for the petitioner is that there is a civil dispute between the parties only on account of which just to harass the petitioners and arm twist them into submission, opposite party no. 5 has filed an application under Section 156(3) Cr.P.C. which is malafide.

Learned A.G.A. has vehemently opposed the aforesaid contention and submits that this writ petition is not maintainable.

We fail to understand as to how in exercise of our powers under Article 226 of the Constitution of India, we can issue a Mandamus directing the C.J.M., Lakhimpur Kheri to dismiss the application filed before him under Section 156(3) Cr.P.C., that too, by the petitioners who are said to be accused in the said proceedings against whom the application has been filed. It is for the C.J.M. to look into the matter and do the needful as per law.

We see no reason to entertain this writ petition at this stage.

The writ petition is accordingly **dismissed** but without prejudice to the rights, if any, of the petitioners to pursue other remedies, as may be prescribed in law.

Order Date :- 27.10.2023/Lokesh Kumar

[Ajai Kumar Srivastava-I, J.] [Rajan Roy, J.]