

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 8498 of 2023

Petitioner :- Pushpa Devi

Respondent :- State Of U.P. Thru. Prin. Secy. Home, Lucknow And Others

Counsel for Petitioner :- Rajnish Ojha

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Narendra Kumar Johari,J.

(1) Heard the learned counsel for the petitioner and the learned A.G.A. who appears for the Opposite party nos.1 to 3.

(2) This petition has been filed by the petitioner with the following main prayer:-.

"1) issue an appropriate writ, order or direction in the nature of Mandamus commanding the respondents to arrest the accused persons in N.C.R. No.0077 of 2020, under Sections 323, 504, 506 I.P.C., P.S. Antu, District Pratapgarh.

2) issue an appropriate writ, order or direction to command the Respondents to investigate this matter in accordance to law fairly in N.C.R. N.C.R. No.0077 of 2020, under Sections 323, 504, 506 I.P.C., P.S. Antu, District Pratapgarh."

(3) Learned counsel for the petitioner says that he may be allowed to not press the **Prayer no.1**. He prays for a direction to be issued to the Police Personnel to investigate the N.C.R. No.0077 of 2020, under Sections 323, 504, 506 I.P.C., P.S. Antu, District Pratapgarh, fairly.

(4) It has been submitted that the order has been passed by the concerned Magistrate under Section 155 (2) of the Cr.P.C. but the Police Personnel are not investigating the matter.

(5) Learned A.G.A. on the other hand, has raised a preliminary objection saying that for the relief, as claimed in this petition, the petitioner has statutory remedy of filing

a Complaint/ Application before the Judicial Magistrate, concerned, under Section 156 (3) Cr.P.C. as observed by the Hon'ble Supreme Court in the case of ***Sakiri Vasu Vs. State of U.P. and Others reported in 2008 (2) SCC 409***, an application can be filed to the Magistrate concerned who has very wide powers to direct and ensure a proper investigation. He can also monitor such investigation that the investigation is done properly.

(6) This petition is finally **disposed of** with a direction to the petitioner to approach the Magistrate concerned under Section 156 (3) Cr.P.C., who shall look into the matter and ensure that justice is done to the Complainant/ Informant.

Order Date :- 3.11.2023

N.PAL