

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 8567 of 2023

Petitioner :- Akash Singh

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

Counsel for Petitioner :- Ratnesh Kumar Rawat

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 AGA who appears on behalf of State-respondents.
2. This petition has been filed with a prayer to issue a writ, order or direction in the nature of mandamus thereby commanding and directing the opposite parties/police authorities to conduct fair and proper investigation in Case Crime No. 0313 of 2023 under Sections 364/323 IPC, P.S. Dubagga, District Lucknow and record the statement of the petitioner and his brother as well as action in accordance with law, in the interest of justice.
3. Learned AGA has raised a preliminary objection regarding the prayer made by the petitioner in this petition as such direction cannot be granted by this Court in these proceedings.
4. We have perused the averments made in the writ petition and are not convinced that any direction, as has been prayed for by the petitioner in this writ petition, can be granted in these proceedings. The Supreme Court in the case of **Sudhir Bhaskarrao Tambe vs. Hemant Yashwant Dhage and others**, reported in **(2016) 6 SCC 277** relying upon an earlier judgment of the Supreme Court in the case of **Sakiri Vasu vs. State of U.P. and others**, reported in **(2008) 2 SCC 469** has held that this Court normally should not entertain such petitions for the reason that complainant in such situations is at liberty to avail the alternative remedy by approaching the Magistrate concerned under Section 156(3) Cr.P.C.
5. Accordingly, we are not inclined to entertain this writ petition, which is hereby **disposed of** with the observation that it will be open to the petitioner to approach the Magistrate concerned by moving an application under

Section 156(3) Cr.P.C. If any such application is moved by the petitioner/complainant, the same shall be dealt in accordance with law by the Magistrate concerned.

Order Date :- 7.11.2023

AKK