

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 8645 of 2023

Petitioner :- Ram Avtar

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

Counsel for Petitioner :- Ganga Prasad Mishra, Abhinav Mishra

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra, J.

Hon'ble Narendra Kumar Johari, J.

Power filed by Shri Vivek Kumar Mishra, Advocate on behalf of respondent nos.5 and 6 is taken on record.

Heard learned counsel for petitioner, learned AGA for State-respondent nos.1 to 3 and Shri Vivek Kumar Mishra, learned counsel for respondent nos.5 and 6.

This writ petition has been filed with the following main prayers:-

"(i) Issue a writ order or direction in the nature of Mandamus there by directing the opp. Party no. 3 lodged FIR against the opp. Party no. 4 to 6 and investigate the matter in compliance of the order dated 09-08-2023 passed by Special Judge SC/St Act Lucknow In Misc Criminal Case No. 827/2023 Ram Avtar Versus Rakesh Yadav & Others As contained in Annexure no. 1 to this Writ Petition.

(ii) Issue a writ order or direction in the nature of Mandamus commanding the opposite parties no. 1 to 3 to take necessary action to make compliance of the order dated 09-08-2023 passed by Special Judge S.C. St Act Lucknow In Misc Criminal Case No. 827/2023 Ram Avtar Versus Rakesh Yadav & Others accordingly to provide safety of the petitioner and his family members."

Learned counsel for the petitioner has argued that despite the petitioner making an application to the Special Judge, SC/ST Act, Lucknow in Criminal Misc. Case No. 827 of 2023; Ram Avtar Versus Rakesh Yadav & Others no FIR has been lodged and the Special Judge, SC/ST, Lucknow passed an order dated 09.08.2023 stating that no FIR has been lodged by the police in the matter.

Learned counsel for the petitioner has placed reliance upon paragraph nos.4, 5 and 6 of this writ petition.

Learned counsel for respondent nos.5 and 6 has read out the order dated 09.08.2023 before this Court and pointed out the misrepresentation made in the writ petition.

Learned AGA has produced instructions sent by Inspector Shri Jaiprakash Yadav, police station Indiranagar, Lucknow, which is taken on record. Learned AGA states from the said instructions that the petitioner is an accused under Warrant Case No.402/16 under Section 138 of the Negotiable Instruments Act, 1881 registered at police station Gomti Nagar. In compliance of order passed by the Special Judge, SC/ST Act, Lucknow, the police station concerned sent Sub Inspector Aasit Yadav along with Sub Inspector Nagendra Singh and Constable Manjeet Singh on 07.06.2023 to arrest the accused and an entry was made in the G.D. maintained at the police station concerned regarding such procedures being adopted, but the petitioner Ram Avtar had absconded.

It has been further submitted that Rakesh Yadav the informant had approached the Court concerned with regard to an allegation that Ram Avtar had given him a cheque which had bounced.

This Court having heard the learned counsel for respondent nos.5 and 6 and having gone through the instructions, finds no good ground to show interference.

The writ petition is accordingly **dismissed** with a cost of Rs.10,000/-, for misrepresentation in the pleadings in the writ petition and during the course of argument, to be deposited by the petitioner within one month in this Court and in case of failure to do so, the Senior Registrar shall issue a recovery certificate to the District Magistrate concerned, who shall recover the amount as arrears of land revenue from the petitioner and deposit the same in this Court within three months thereafter.

Order Date :- 8.11.2023

Arnima