

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 8889 of 2023

Petitioner :- Vipin Kumar

Respondent :- State Of U.P. Thru. Prin. Secy. Home Lko. And 5 Others

Counsel for Petitioner :- Rakesh Kumar Tripathi

Counsel for Respondent :- G.A., Abhijat Pratap Singh, Ashutosh Rawat

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Narendra Kumar Johari,J.

Heard learned counsel for the petitioner and learned A.G.A. for the State-respondents and Sri Ashutosh Rawat, learned counsel for the opposite party.

THearD learned counsel for the petitioner, learned A.G.A. for the State/respondents and perused the record. This writ petition has been filed with the following main prayers :-

"(1) Issue a writ, order or direction in the nature of Certiorari to quash the First Information Report lodged by the opposite party no.4 at Case Crime No.0777 of 2023, under Sections 363, 366, 376 (3) I.P.C. and 3/4 Protection of Children from Sexual Offences Act, Police Station Thakurganj, District Lucknow, contained as Annexure No.1 to this writ petition.

(2) Issue a writ, order or direction in the nature of Mandamus commanding to opposite parties to not to arrest the petitioner in Case Crime No.0777 of 2023, under Sections 363, 366, 376 (3) I.P.C. and 3/4 Protection of Children from Sexual Offences Act, Police Station Thakurganj, District Lucknow."

It has been submitted by the learned counsel for the petitioner that learned A.G.A. was directed to seek instruction with regard to annexure No. 3 and 4.

This Court has perused the order dated 21.11.2023. The extract of the relevant portion of the order is quoted hereinbelow:-

"It has been submitted by learned counsel for the petitioner that on 06.11.2023 when the alleged incident is said to have happened, mother of the victim was called to the Police Station as the victim had alleged her being beaten up by her parents. On 07.11.2023 and again on 08.11.2023 as is evident from Annexure No.4 to the writ petition, mother of the victim

had given a written statement that she is taking the victim away from the Police Station with the promise that they will not beat her again. Now on 11.11.2023, the story has been completely changed and alleged that accused committed rape upon the victim on 06.11.2023.

Learned A.G.A. shall seek instructions with regard to Annexure No.3 and 4 to the writ petition.

List this case on 2nd December, 2023, as fresh.

Till the next date of listing, arrest of the petitioners in pursuance of the impugned FIR/Case Crime No.0777 of 2023, under Sections 363, 366, 376 (3) I.P.C. and 3/4 Protection of Children from Sexual Offences Act, Police Station Thakurganj, District Lucknow shall remain stayed."

Learned A.G.A. has produced before this court the instruction sent by Ravindra Kumar Sub Inspector, Police Station Thakurganj, District Lucknow along with case diary and the statement of the victim recorded under Section 164 Cr.PC.

From the instructions it is evident that although the victim had left her home on own due to the ill treatment meted out by her parents/mother she was picked up by the petitioner and taken away to some other place and raped, thereafter she was rendered unconscious. When she came to her senses, she found herself near the police station. In the police station she was scared to give a statement and the petitioner somehow got her false statement recorded that she was being beaten by her parents and she had ran away on her own but now she wanted to go back home. The entire story was noted at serial no. 47 on 7.11.2023. When the victim reached home and in the care of her parents she told to her parents what had happened with her, thereafter the impugned F.I.R. was lodged.

The instruction as well as the case diary along with statement recorded under Section 164 Cr.P.C. is taken on record.

The Court having perused the impugned F.I.R. finds no ground to show interference.

The writ petition is, accordingly, **dismissed**.

Order Date :- 2.12.2023

Anuj Singh