Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 9087 of 2023

Petitioner :- Ram Krishna
Respondent :- State Of U.P. Thru. Chief Secy. Home U.P. Govt. Civil Sectt. Lko And 3 Others
Counsel for Petitioner :- Atul Kumar Singh
Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.
Hon'ble Narendra Kumar Johari,J.

Heard learned counsel for the petitioner, learned A.G.A. for the State-respondents and perused the record.

This writ petition has been filed by the petitioner with a prayer to issue a writ of mandamus directing the respondents/opposite parties to take appropriate action and done investigation in just and proper manner which is pending in EOW, Lucknow in Case Crime No.295/2021, under Sections 406, 420, 452, 504, 506 IPC, Police Station - Kotwali City, District Hardoi.

Learned counsel for the petitioner submits that the petitioner is the informant of the case. He further submits that the impugned FIR has been lodged on 25.03.2021 against accused, but till date the investigation has not been concluded, hence he has come up before this Court by filing the present petition.

It is well settled in view of the decision of the Apex Court in **Sakiri Vasu v. State of U.P., (2008) 2 SCC 409** as reiterated in **Sudhir Bhaskarrao Tambe v. Hemant, Yashwant Dhage and others, (2016) 6 SCC 277** that in the event of unsatisfactory investigation, remedy of the aggrieved person is not to approach the High Court under Article 226 of the Constitution of India but to approach the Magistrate concerned under Section 156(3) Cr.P.C. Paragraphs 2 and 3 of **Sudhir Bhaskarrao Tambe v. Hemant, Yashwant Dhage and others (supra)** are quoted hereinunder:-

*"2. This Court has held in **Sakiri Vasu v. State of U.P.**, that if a*

person has a grievance that his FIR has not been registered by the police, or having been registered, proper investigation is not being done, then the remedy of the aggrieved person is not to go to the High Court under Article 226 of the Constitution of India, but to approach the Magistrate concerned under Section 156(3) CrPC. If such an application under Section 156(3) CrPC is made and the Magistrate is, prima facie, satisfied, he can direct the FIR to be registered, or if it has already been registered, he can direct proper investigation to be done which includes in his discretion, if he deems it necessary, recommending change of the investigating officer, so that a proper investigation is done in the matter. We have said this in Sakiri Vasu case because what we have found in this country that the High Courts have been flooded with writ petitions praying for registration of the first information report or praying for a proper investigation.

3. We are of the opinion that if the High Courts entertain such writ petitions, then they will be flooded with such writ petitions and will not able to do any other work except dealing with such writ petitions. Hence, we have held that the complainant must avail of his alternate remedy to approach the Magistrate concerned under Section 156(3) CrPC and if he does so, the Magistrate will ensure, if prima facie he is satisfied, registration of the first information report and also ensure a proper investigation in the matter, and he can also monitor the investigation."

Thus, in view of the above, remedy, if any, for the petitioner is to approach the competent Magistrate in respect of her grievance.

With the aforesaid observations, this writ petition stands **disposed of**.

Order Date :- 29.11.2023
ML/-

Digitally signed by :-
MUNNA LAL
High Court of Judicature at Allahabad,
Lucknow Bench