

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 9159 of 2023

Petitioner :- Radha

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

Counsel for Petitioner :- Shiv Kumar Yadav

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 I Learned AGA for State-respondents.

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

"(i) issue, a writ, order or direction in the nature of Mandamus commanding and directing the opposite parties not to harass and curtail the personal liberty of the petitioner.

(ii) issue, a writ, order or direction in the nature of Mandamus commanding and directing the opposite party no. 2 and 3 to conduct medical examination of petitioner and also record her statement under section 164 Cr.P.C."

(3) It has been submitted by learned counsel for the petitioner that the petitioner is 19 years of age and her father had initially lodged an FIR against one Nagesh son of Chhote Lal alleging that he had enticed away the petitioner, who is minor, which is registered as Case Crime No.58 of 2023 under Sections 363, 366 IPC on 09.03.2023. The petitioner was recovered and handed over to her guardian/ father, however, again an FIR has been lodged by her grandfather as Case Crime No.407 of 2023 making allegations against Nagesh son of Chhote Lal. The petitioner further states that she has not been medically examined and the investigation is not being carried out properly, hence this petition has been filed.

(4) 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.

(5) 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 :- 1.12.2023

Arnima