

Court No. - 13

Case :- MATTERS UNDER ARTICLE 227 No. - 6081 of 2023

Petitioner :- Constable Samarjeet Maurya And Another

Respondent :- State Of U.P. Thru. Addl. Chief Secy. /Prin. Secy. Deptt. Of Home Lko And 3 Others

Counsel for Petitioner :- Suyesh Pradhan

Counsel for Respondent :- G.A.

Hon'ble Karunesh Singh Pawar,J.

Heard learned counsel for the petitioners as well as learned AGA for respondent no. 1 to 3.

Notices to respondent no. 4 are dispensed with in view of the proposed order.

By this petition, the petitioners have prayed for the following relief:-

to issue a order or direction to set aside the impugned order dated 18/11/2023 passed by Learned Chief Judicial Magistrate, Sitapur, Uttar Pradesh in Misc. Criminal Case No.- 759/2023, (Kanhaiya Lal versus Sarvjeet Constable and another) whereupon application under section 156 (3) Cr.P.C was allowed by said impugned order in most illegal, mala fide, unjust, improper manner as contained in Annexure No. 01 to this petition;

Perusal of the record shows that that vide order dated 18.11.2023, the application filed by the complainant under Section 156(3) Cr.P.C. has been allowed by the CJM, Sitapur and directions have been issued to the concerned Police Station to register a case against the accused persons in the appropriate offences. The aforesaid order as well as the complaint shows that allegations against the petitioners are that the petitioners have caught hold the complainant, beaten him, looted Rs. 2000/- and have outraged the modesty of the wife of the complainant. Clearly the allegations in the complaint attract Section 354/354A and 354B IPC.

The explanation to sub section 1 of 197 Cr.P.C. provides that no sanction shall be required in case of a public servant accused of any offence ought to have been committed under Section 354/354A and 354B IPC. In this case from the allegation in the complaint, the aforesaid three sections are clearly attracted, hence, in view of the explanation to sub section 1 of Section 197 Cr.P.C., no sanction is required in the given peculiar facts of this case and thus, I find no illegality in the order impugned.

The argument of learned counsel for the petitioners that prior

sanction ought to have been obtained by the learned magistrate before proceedings to direct for lodging of the FIR is clearly misconceived and therefore, the petition is ***dismissed*** for want of merit.

Order Date :- 6.12.2023

R.C.