

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 9407 of 2023

Petitioner :- Malti Yadav

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

Counsel for Petitioner :- Mukesh Dhar Dwivedi

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Narendra Kumar Johari,J.

(1) Heard the learned counsel for the petitioner and the learned A.G.A. who appears for the Opposite party nos.1 to 5.

(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 the opposite party no. 2 to 5 to conduct fair investigation in respect of case crime No. 0459/2023, under section 419/420/504/506 I.P.C. police station Patti, District Pratapgarh and further ensure that all accused persons so named in the petitioners complaint and the consequent enquiry report so submitted circle officer patti, are booked under relevant sections so as to bring the investigation to its logical culmination, in the interest of justice.

II. Issue, a writ, order or direction in the nature of mandamus commanding the opposite party no.4 to act upon the report dated 25.10.2023 so submitted by circle officer patti, to the Superintendent of police patti wherein he has recommended initiation of criminal prosecution against all person named in the complaint so preferred by the petitioner, in the interest of justice."

(3) It is the case of the petitioner that accused persons after usurping the entire property have also got huge amount of loan in the name of petitioner's husband and are threatening the petitioner to vacate the land of her house. The petitioner whereafter has preferred application to local police and also to opp. party nos.2 and 3 but no action has been taken for lodging of complaint against accused persons till date in the matter, 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 :- 13.12.2023

Arnima