

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 9413 of 2023

Petitioner :- Sumitra Devi

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Deptt. Of Home, Lucknow And Others

Counsel for Petitioner :- Vayu Nandan Mishra

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Narendra Kumar Johari,J.

Heard learned counsel for the petitioner and learned AGA for State-respondents.

This writ petition has been filed with the following prayers:-

"1. Issue a writ order or direction in the nature of Mandamus, commanding and directing the Opposite Party No. 2 Superintendent of police, District Gonda to ensure the arrest of accused persons of first information report No. 91/2022, on dated 12.11.2022.registered at police station- Mahila Thana District- Gonda.

2. Issue my other writ, order or direction in the nature of mandamus to thereby commanding the concerned opposite parties/ police authorities to ensure the fair and proper investigation of first information report no.91/2022, registered at police Station- Mahila Thana District- Gonda, Who are going Scot free and extending over threats with the overt and covert and covert and support of the opposite party."

Learned AGA has pointed out that prayer no.1 as prayed in this writ petition, cannot be granted by this Court. The petitioner has no subsisting legal right to pray for a mandamus with direction to police authorities to arrest the accused.

Learned counsel for petitioner states that he wishes to not press prayer no.1 but he prays that his prayer no.2 be considered and appropriate orders be passed.

We have seen prayer no.2 and it appears that there is a matrimonial dispute.

Learned A.G.A. states that against the prayer no.2 as prayed by

petitioner, 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.

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