

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 9469 of 2023

Petitioner :- Hazra Bano

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

Counsel for Petitioner :- Shazil,Aqeel Ahmad Khan,Bhup Chandra 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 AGA who appears on behalf of State-respondents and perused the record.

This petition has been filed praying the following main reliefs:-

i) Issue a Writ, order or direction in the nature of Mandamus commanding and directing the investigation officer as well as to the concerned responsible police authority to investigate the matter in just, fair and proper manner of F.I.R. No. 253/2022 (contained as Annexure No.1) registered on 29.03.2022 under section 395, 397, 427 IPC at Police Station- Kotwali City, District- Pratapgarh because after passing of 1 year and 10 months, till date neither submitted charge sheet nor arrested the opposite party no. 4 and 5 that's why ensure the filing of the charge sheet against the opposite party no. 4 and 5 and also arrest of opposite party no. 4 and 5 in the interest of justice.

It has been submitted by the learned counsel for the petitioner that although the F.I.R. was lodged by the petitioner on 29.03.2022 but the Investigating Officer is conducting a fair investigation and he is in collusion with the opposite parties.

We have perused the averments made in the writ petition and are not convinced that any direction, as has been prayed for by the petitioner in this writ petition, can be granted in these proceedings. The Supreme Court in the case of ***Sudhir Bhaskarrao Tambe vs. Hemant Yashwant Dhage and others, reported in (2016) 6 SCC 277*** relying upon an earlier judgment of the Supreme Court in the case of ***Sakiri Vasu vs. State of U.P. and others, reported in (2008) 2 SCC 469*** has held that this Court normally should not entertain such petitions for the reason that complainant in such situations is at liberty to avail

the alternative remedy by approaching the Magistrate concerned under Section 156(3) Cr.P.C.

Accordingly, we are not inclined to entertain this writ petition, which is hereby **disposed of** with the observation that it will be open to the petitioner to approach the Magistrate concerned by moving an application under Section 156(3) Cr.P.C. If any such application is moved by the petitioner/complainant, the same shall be dealt in accordance with law by the Magistrate concerned.

Order Date :- 14.12.2023

Anuj Singh