

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 9490 of 2023

Petitioner :- Asharfi Lal Umar Vaishya

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

Counsel for Petitioner :- Aman Kumar Shrivastav

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 4.

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

"(i) issue, a writ, order or direction in the nature of Mandamus commanding the opp. Parties concerned to transfer the investigation of F.I.R. dated 20.06.2021 of case crime no.530 / 2021 under section 419, 420, 467, 468, 471, 406, 506 I.P.C. P.S. Kotwali City District Pratapgarh, from opp. party no. 4 to C.B.I., C.B.C.I.D., Crime Branch or any other independent agency and make fair and proper investigation and also protect the life and liberty of the petitioner from the accused persons of the aforesaid F.I.R. in the interest of justice.

(ii) issue, a writ, order or direction in the nature of Mandamus commanding the opp. Parties concerned to take the necessary action in respect of grievances of the petitioner raised in the application contained in Annexure no.1 to this writ petition and arrest the concerned accused persons of the F.I.R. dated 20.06.2021 of case crime no.530 / 2021 under section 419, 420, 467, 468, 471, 406, 506 I.P.C. P.S. Kotwali City District Pratapgarh in the interest of justice."

(3) It is the case of the petitioner that the petitioner had lodged FIR against accused persons on 20.06.2023 for cheating and deceiving him and taking Rs.25,00,000/- as sale consideration and also threatening him but no fair investigation is being carried out, 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 :- 15.12.2023

Arnima