

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 9564 of 2023

Petitioner :- Xx In Case Crime No. 372 Of 2021 P.S. Banthra Lucknow Thru S.H.O.

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

Counsel for Petitioner :- Vijay Bahadur Singh

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Narendra Kumar Johari,J.

1. Heard learned counsel for the petitioner and learned A.G.A. who appears on behalf of the State Respondents.

2. This petition has been filed with the following main prayer:-

"(a) To issue a writ, order or direction in the nature of writ of mandamus commanding the opposite parties no.1 to 3 to conduct fair and proper investigation of the case noted at First Information Report no. 0372/2021, U/S- 354, 323 of the I.P.C. and 7/8 of the Protection of Children from Sexual Offences Act, 2012, P.S. - Banthra, District- Lucknow Central (Police Commissionerate, District- Lucknow) as contained in Annexure no.1 to this writ petition.

(b) To issue a writ, order or direction in the nature of writ of Mandamus commanding the opposite parties no.1 to 3 to arrest the opposite party no. 4 to 7 in First Information Report no. 0372/2021, U/S- 354, 323 of the I.P.C. and 7/8 of the Protection of Children from Sexual Offences Act, 2012, P.S. - Banthra, District- Lucknow Central (Police Commissionerate, District- Lucknow) as contained in Annexure no.1 to this writ petition."

3. For the orders proposed to be passed, notice to the private respondents is dispensed with.

4. It is the case of the petitioner that an F.I.R. was lodged by him on 10.11.2021 against the private respondents. The Investigating Officer is not taking interest in proper investigation of the case. Hence this petition has been filed.

5. 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.

6. 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 :- 18.12.2023

Darpan Sharma