

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 9734 of 2023

Petitioner :- Sunil Chandra Gope

Respondent :- State Of U.P. Thru. Sho, Sarojini Nagar Lko./D.C.P., South Kali Patty, Lko., And Others

Counsel for Petitioner :- In Person

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Karunesh Singh Pawar,J.

Heard Sri Sunil Chandra Gope who has appeared in person as well as learned AGA for respondent no. 1.

This petition has been filed with a following main prayer:-

"a. to issue a rule and practice upon the respondent authority through Crt. below to direct the respondent authorities particularly respondent no 1.and its associate to Register FIR U/S, 193&195/137/200/166/270/161/120/420/406 /143/504/427/120B,of I.P.C.couple with 308 & others IPC & render all sorts of necessary assistance Immediately in respect of the Agreement dated 3rd Oct. 2018 in question within the jurisdiction of Sarojini Nagar Police Station Lucknow by considering petitioner's representation dated 27.01.2022& forthwith:

b. direction to police station Sarojini Nagar Lucknow to transmit all relevant records by which the conscionable justice may be rendered:

c. direction to the Lnd. Crt. J.M. 3 Lucknow & Lnd. Crt. Adl. D. J.-15 to transmit all relevant records by which the conscionable justice may be rendered.

d. to pass an Order against the Respondents directing them to compensate the Petitioner with an amount of Rs. 9,10,800/- which he has invested in converting his personal property to run the school by the Respondents for the academic year to start school since 2019-20 to the time to come

e. The State Authority specially the SHO. P.S. Sarojini Nagar be Call to explain His position not comply the order of Ind Crt. to cary His responsibility in performing His duty as Trusted by law of the country and why disciplinary not be taken against Him.

f. To pass an Order directing the Respondents to pay Rs.5,00,000/- towards the loss suffered to loss of rent by the Petitioners in the academic year 2019-20 to days due to not opening of the school in the year 2019-20 discussed between the parties and the cheating and criminal breach of trust committed on part of the Respondents. Direct the Respondent Authorities to fulfill their contractual obligation and to take effective measures to inaugurate the school for the academic year 2023.-24

g. A view may kindly be passed against the benefit of doubt in the working

of the Court below.

h. COST OF litigation."

The petitioner has stated that he had initially filed an application under Section 156(3) Cr.P.C. before the Judicial Magistrate-III, Lucknow who directed the registration of the said case as a complaint case. The petitioner wanted the registration of FIR and investigation thereupon. He did not want the application to be registered as a complaint case, therefore, he filed a criminal revision No. 43 of 2023 "Suneel Chandra Gope Vs. State of U.P. and others", wherein initially an interim order summoning the record of the Judicial Magistrate's Court was passed on 07.01.2023, but, later on, the said criminal revision has been rejected by an order dated 04.09.2023 by the Additional District Magistrate, Court No. 15, Lucknow. He is aggrieved by the rejection of his revision and he prays that the FIR be lodged/registered in the case and therefore, direction be issued to SHO, Sarojini Nagar, Lucknow by this Court as mentioned in prayers aforesaid.

Learned AGA has raised a preliminary objection regarding the maintainability of the writ petition on the ground that in case the petitioner is aggrieved by the order passed by the Judicial Magistrate on 04.11.2022 and also by the order passed by the District and Sessions Judge, Court No. 15, Lucknow on 04.09.2023, then he would have to challenge both the orders before the competent forum. The writ petition praying for a mandamus to be issued to SHO, P.S. Sarojini Nagar to register FIR with regard to the matter in which the petitioner's application under Section 156(3) Cr.P.C. has been treated as a complaint case should not be entertained.

We have heard the petitioner in length. We find substance in the preliminary objection raised by the learned AGA. Accordingly, the writ petition is ***dismissed*** as not maintainable.

However, it shall be open for the petitioner to approach the competent forum for his grievances.

Order Date :- 21.12.2023

R.C.