

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 9657 of 2023

Petitioner :- Sunil Kumar Azad

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

Counsel for Petitioner :- Vivek Kumar Mishra

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Narendra Kumar Johari,J.

Heard learned counsel for the petitioner, learned A.G.A. for the State/respondents and perused the material placed on record.

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

"(i) Issue a writ, order or direction in the nature of Mandamus thereby commanding and directing the opposite parties specially opposite party no.2 to get conduct the fair, impartial and proper investigation in the present case and not to take any coercive action against the petitioner without any sufficient evidence and without giving the full opportunity of hearing to the petitioner, in the interest of justice."

It has been submitted by learned counsel for the petitioner that one F.I.R.No.0034/2023 was lodged on 24.01.2023 by the complainant against the opposite party No.5, who is an Advocate, under Sections 376-D, 452, 504, 506 I.P.C. at Police Station -Krishna Nagar, District-Lucknow with regard to an incident that occurred on 17.12.2022. The petitioner was at that time posted at Krishna Nagar and he was the Investigating Officer in the said case. He arrested the opposite party No.5 and when the opposite party No.5 was released from jail, he moved an application before the Special Judge, SC/ST Act, Lucknow in Misc. Case No.530/2023 alleging harassment by the police personnel of Police Station - Krishna Nagar, Lucknow. He has impleaded the petitioner and other police personnel of Police Station - Krishna Nagar as also the complainant in the F.I.R. No.0034/2023, as respondents. A copy of the application has been filed as Annexure No.4 to the writ petition. The application was taken up on 29.05.2023 and the Special Judge (SC/ST Act) has passed a detailed order asking opposite party No.2 to inform the court as to what steps have been taken on the

application made by the applicant Lakhan Singh on 03.05.2023 against the misconduct of the police personnel of Police Station- Krishna Nagar, a copy of the order has been filed as Annexure No.5 to the writ petition.

This Court having gone through the pleadings on record is of the opinion that till date the petitioner has not lodged any F.I.R. against the opposite party No.5. Therefore, the prayer as made in the writ petition for direction to the opposite party No.2/Commissioner of Police, Lucknow to get a fair and impartial and proper investigation done. The case of the petitioner seems to be misconceived.

Learned counsel for the petitioner says that the petitioner has no remedy left as he is only a proposed accused in the application under Section 156 (3) Cr.P.C. and, therefore, he is not entitled to be heard by the Special Judge, SC/ST Act, Lucknow at this stage in Misc. Case No.530 of 2023.

During the course of argument, it has been admitted by the learned counsel for the petitioner that the petitioner had been summoned by the Opposite Party No.2 to give his statement but he has not gone as yet to get his statement recorded in the inquiry being conducted on the orders of the Special Judge, dated 29.05.2023.

The petitioner is directed to approach the Opposite party No.2 and state his version of the story at the earliest.

The writ petition is **disposed of** accordingly.

Order Date :- 20.12.2023

ML/-