

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 9716 of 2023

Petitioner :- Mo. Shakeel @ Shakeel Ahmad And Another
Respondent :- State Of U.P. Thru. Secy. Home Civil Sectr. Lko. And Others

Counsel for Petitioner :- Krishna Gopal

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Karunesh Singh Pawar,J.

(1) Heard the learned counsel for the petitioners and the learned A.G.A. who appears for the Opposite party nos.1 to 3.

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

"(i) issue, a writ, order or direction in the nature of Mandamus commanding the opposite parties particularly opposite party No.1 and 2 properly investigate the case of Case Crime No.170/2019, under Sections 420, 40, 506 I.P.C. at the Police Station Dewa, District Barabanki, is being annexed herewith as Annexure No.1 to this writ petition.

(ii) issue, a writ, order or direction in the nature of Mandamus commanding the opposite parties particularly opposite party No. 1 to 2 to transfer the investigation relating to Case Crime No.170/2019, under Sections 420, 40, 506 I.P.C. at the Police Station Dewa, District Barabanki, to any other agency of police or CBCID such as Special Team of Police or by Deputy Investigating Team Superintendent of Police is being annexed herewith as Annexure No.1 to this writ petition."

(3) It is the case of the petitioner that he had lodged an FIR against accused persons but the same has not been properly investigated by the local police and the investigating officer is pressurizing the petitioner for compromise, 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 :- 21.12.2023

Arnima