

Court No. - 16

Case :- CRIMINAL MISC. WRIT PETITION No. - 1005731 of 2012

Petitioner :- Smt. Arti

Respondent :- State of U.P. and Others

Counsel for Petitioner :- Arun Saxena

Counsel for Respondent :- Govt. Advocate

Hon'ble Shamim Ahmed,J.

Case is taken up in the revised list, however, none is present for the petitioner to press this petition of the year 2012.

Learned A.G.A. Sri Ashok Kumar Singh for the State is present.

Heard the learned A.G.A. and perused the record.

This writ petition has been filed with the following prayer:

“1) Issue a writ, direction or order in the nature of certiorari quashing thereby the impugned order dated 22.8.2012 passed by learned ACJM-II, Sitapur in Misc. Case No- 224 of 2012 under section-156(3) Cr.P.C. relating to police station-Misrikh District-Sitapur, contained as annexure no-1 to the writ petition.

2) Issue a writ or direction in the nature of mandamus staying thereby the operation of impugned order dated 22.8.2012 passed by the court below.”

It has been stated in the writ petition that marriage of the petitioner Arti and Sunil Kumar S/o Ram Autar was solemnized and they are living as husband and wife. Due to misunderstanding, the husband of the petitioner was not allowing the petitioner's mother or other persons of her parental home to visit his house. After some time, the husband left the village with the petitioner and started living in another village Guffapurwa, so that no one could interfere in their peaceful life.

The opp. party no. 4, who is mother of the petitioner, tried to meet the petitioner, but her husband, who was already frustrated, did not allow her to meet with her daughter/petitioner here. Being aggrieved with this action of the son-in-law, the mother of the petitioner met with a local Advocate and told him all thing. The Advocate advised mother of the petitioner to lodge a case under Section 156(3), Cr.P.C. and obtained her thumb impression. Thereafter, an application under Section 156(3), Cr.P.C. was filed on behalf of mother of the petitioner and the learned Magistrate, without considering

the fact that it is dispute between the mother-in-law, son-in-law and her own daughter, allowed the application under Section 156(3), Cr.P.C. and directed the S.H.O. concerned to lodge the first information report, thus, the impugned order was passed without considering the material on record and was passed on surmises and conjectures, thus, the impugned order is bad in the eye of law and is liable to be rejected by this court and the present petition deserves to be allowed.

Sri Ashok Kumar Singh, learned A.G.A.-I, also submits that the matter appears to be of some family dispute between the mother-in-law, her real son-in-law and daughter and the mother-in-law, being an illiterate village lady, on the legal advice of the Advocate, filed the case under Section 156(3), Cr.P.C., and the impugned order dated 22.08.2012 was passed by the learned Magistrate, thus, in the interest of justice and for better settlement of the family, the impugned order is liable to be set aside by this Court.

After considering the arguments as advanced by the learned A.G.A.-I Sri Ashok Kumar Singh and going through the record, this court is also of the view that the impugned order dated 22.08.2012 has been passed by the learned Magistrate in a routine manner, without considering this fact that the application has been moved by the mother of the petitioner and the dispute is very simple between the mother-in-law/complainant, son-in-law and her daughter, who is the petitioner in the present case, thus, a direction to lodge the first information report in such family and petty matters, appears to be hash, thus, the impugned order was passed, without considering the real dispute at all and has been passed only on surmises and conjectures and in a routine manner, thus, this court is of the view that the impugned order is liable to be set aside and rejected.

Accordingly, this petition is hereby **allowed**. Impugned order dated 22.8.2012 passed by learned ACJM-II, Sitapur in Misc. Case No- 224 of 2012 under section-156(3) Cr.P.C. relating to police station-Misrikh District-Sitapur, contained as annexure no-1 to the writ petition, is resultantly set aside.

No order as to costs.

(Shamim Ahmed, J.)

Order Date :- 26.7.2024
A.Nigam