

Court No. - 44

Case :- CRIMINAL MISC. WRIT PETITION No. - 3894 of 2022

Petitioner :- Amit Kumar Jain

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Satyendra Narayan Singh

Counsel for Respondent :- G.A.

Hon'ble Ashwani Kumar Mishra,J.

Hon'ble Rajnish Kumar,J.

This writ petition has been filed seeking following reliefs:-

"(i) Issue a writ, order or direction in the nature of Mandamus directing the respondent authority to transfer the investigation of Case Crime No.101 of 2022, under Sections 452, 387, 353, 506, 507 IPC, Police Station Civil Lines, District Muzaffar Nagar to Central Bureau of Investigation (CBI) to investigate the above noted case.

(ii) Issue a writ, order or direction in the nature of mandamus directing the respondent no.1 to decide the representation dated 17.03.2022 within stipulated time.

(iii) Issue a writ, order or direction in the nature of mandamus directing the respondents to make fair investigation in Case Crime No.101 of 2022, under Sections 452, 387, 353, 506, 507 IPC, Police Station Civil Lines, District Muzaffar Nagar."

The facts of the case are disturbing. We direct the description of parties to be anonymized. Names of the parties to the present petition henceforth shall be referred to as X vs. State.

The First Information Report under challenge is contained in Annexure-1 to the writ petition. The informant happens to be the wife of a Judicial Officer and claims to be receiving threats from the named accused whose matter is pending in the court of her husband. Various instances of such threats have been referred to in the report. Prayer has thus been made to investigate the crime and to provide appropriate protection to the family members of the judicial officer concerned.

The FIR is challenged on the ground that there exists complicity of the Judicial Officer and his wife in the matter and various call recordings of telephonic conversations between them have been brought on record of the writ petition and its annexures. In para 9 & 20 of the writ petition it is also alleged that certain considerations have been passed on to the officer concerned. The petitioner virtually accepts having paid bribe for favourable decision in the matter. Transcripts of communication between

the Presiding Officer; his wife; and the parties have been annexed in order to demonstrate that Presiding Officer is himself guilty in the matter and that the information given by his wife to the police is not reliable and the FIR is liable to be quashed.

Judicial system of this country is governed by the rule of law and its credibility rests upon trust of the people in the system itself. Instances of this kind, if the allegations are correct, have the ability to question the confidence of a common man in the system itself. It is, therefore, imminently necessary that the allegations and counter allegations are thoroughly investigated in an independent and fair manner. The issue cannot be taken lightly.

So far as the implication of petitioner in the FIR is concerned we find that allegations are specific which clearly make out a prima facie case of cognizable offence in the matter. Whether these allegations are correct or not is an aspect to be examined during the course of investigation. We would not be inclined to interfere with the ongoing investigation in the matter or to direct the investigation to be transferred to any other agency on the asking of petitioner merely on the strength of vague allegations that the investigating officer is not acting independently. The allegations are neither specific nor are substantiated. We, therefore, do not find any good ground to doubt the impartiality of the Investigating Officer in the matter so as to transfer the investigation to any other agency.

The petitioner admittedly is an advocate and he is thus an officer of the Court. Narration of facts in the writ petition which is supported by petitioner's own affidavit clearly suggest that petitioner had intentionally and for his gain offered bribe to a Judicial Officer which clearly disentitles him to grant of any relief by this Court under Article 226 of the Constitution of India. We direct the Registry to send copy of this order alongwith the writ petition to the Chairman, Bar Council of Uttar Pradesh for appropriate action in the matter in accordance with law.

Counsel for the petitioner has referred to and relied upon judgment of this Court in Sri Gopal Gupta and another vs. State of U.P. and others being Writ Petition No.10987 of 2014, decided on 12.09.2014. In that case facts were distinct. The investigation had already progressed and the Court had reasons to form an opinion that the investigation was not progressing in the desired manner where the allegation was against a judicial officer of having committed offence under section 376 IPC. It was in that unusual circumstances that the Court made

observations and directed investigation to be entrusted to the CBI. We do not find any such material available on record, as of now, which persuades us to follow similar course.

So far as the judgement of the Apex Court in Param Vir Singh vs. State of Maharashtra and others being Criminal Appeal No.473 of 2022, decided on 24.03.2022, relied upon by petitioner's counsel is concerned, it was passed in the facts of the particular case where there was serious cloud on the conduct of impartial investigation itself necessitating the transfer of investigation to CBI.

Considering the seriousness of the allegations levelled we call upon the Senior Superintendent of Police, Muzaffar Nagar to personally monitor the investigation and ensure that no influence is allowed to be exercised by anyone only because of the status held by the persons involved in the matter. We also direct that copy of this order alongwith writ petition be placed before Registrar General of this Court for appropriate examination.

Writ petition is, accordingly, dismissed.

Order Date :- 25.4.2022

Ashok Kr.