

Court No. - 8

Case :- CRIMINAL MISC. WRIT PETITION No. - 10069 of 2024

Petitioner :- Swaraj Saurabh And 3 Others

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Home Lko. And 6 Others

Counsel for Petitioner :- Ripu Daman Shahi, Anupama Bhadauria, Pravin Kumar Singh

Counsel for Respondent :- G.A.

Hon'ble Jaspreet Singh, J.

Hon'ble Rajeev Singh, J.

1. Supplementary affidavit filed by learned counsel for the petitioners is taken on record.

2. Heard Sri Ripu Daman Shahi, learned counsel for the petitioners, Sri Shivendra Shivam Singh Rathore, State Law Officer- Criminal, Sri Rajneesh Kumar Verma & Sri Bhanu Pratap Singh, learned A.G.A. and peruse the record.

3. The instant petition is filed with the following prayer :-

"a. Issue a writ, order or direction in the nature of CERTIORARI quashing the impugned FIR dated 18.12.2024 lodged as FIR NO.0203/2024 SECTION 115 (2), 351 (3), 352, 131 OF B.N.S.S, POLICE STATION- KAISERBAGH, DISTRICT- LUCKNOW (CENTRAL), contained as Annexure No.1 to this writ petition.

b. Issue a writ, order or direction in the nature of MANDAMUS restraining the respondents from arresting the petitioner in furtherance to the aforesaid impugned FIR dated 18.12.2024.

c. Issue a writ, order or direction in the nature of MANDAMUS directing the opposite parties to provide protection to the petitioners as their life and liberty is in danger.

d. Issue a writ, order or direction in the nature of MANDAMUS directing the opposite parties to hold the proper and fair inquiry/investigation in pursuance of the atrocities done upon the petitioners and take appropriate action upon the pending application submitted by the petitioner (As contained in the ANNEXURE no. 5)

e. Issue a writ, order or direction in the nature of MANDAMUS to the police authorities to preserve the CCTV footage and relevant evidences of the alleged incident in furtherance of the just and fair investigation."

4. Learned counsel for the petitioners submits that during the course of evidence of Case No.263/2014 (Swaraj Saurabh Vs. Ruby Saroj),

pending in the Court of Additional Principal Judge, Family Court, Lucknow, the incident in question had taken place, for which, complaint was also given to the police but the same was not registered, as a result, on the next date, petitioners were again beaten. He also admitted that all the alleged offences are punishable upto seven years but the Central Bar Association, Lucknow has issued a resolution for adding the Section of attempt to kill, failing which, Advocates will abstain from work, due to which, there is a pressure on the Investigating Officer for adding Section 109 of B.N.S.S., therefore, indulgence of this Court is necessary.

5. Learned A.G.A. vehemently oppose the prayer of the petitioners and submits that proper investigation is going on but he admitted that alleged incident is of 18/19.12.2024 and till today, statement of reader of the court concerned has not been recorded.

6. Considering the submissions of learned counsel for the parties, going through the contents of the application, supplementary affidavit filed by learned counsel for the petitioners and other relevant documents, as there is a resolution of Central Bar Association, Lucknow, therefore, this Court feels that investigation of the case in question be conducted by Additional Commissioner of Police of area concerned.

7. List this case on 13.1.2025 within top ten cases.

8. On the next date, Investigating Officer of the case in question shall appear before this Court alongwith complete case diary and apprise the status of investigation of the case in question.

9. Till the next date of listing, no coercive steps be taken against the petitioners.

Order Date :- 26.12.2024

Gaurav/-

(Rajeev Singh,J.) (Jaspreet Singh,J.)