

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 8401 of 2023

Petitioner :- Amit Kumar Trivedi And Another

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

Counsel for Petitioner :- Ajay Pratap Singh

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra,J.

Hon'ble Narendra Kumar Johari,J.

At the outset, the counsel for the petitioners says that Section 398-A has been wrongly mentioned in the prayer. He may be permitted to correct the same to Section 498-A during the course of the day.

The permission is granted.

He may immediate the correct Section of I.P.C. during the course of the day.

Heard learned counsel for the petitioner and learned A.G.A. for the State-respondents.

This petition has been filed praying the following reliefs:-

(a) Issue a writ, order or direction in the nature of mandamus commanding the opposite party no. 1 to 3 to transfer the investigation as well as proceedings of First Information Report No. 0717 of 2023 at Police Station- Kotwali Nagar, District-Banda under Sections 498-A, 323, 504, 354, 394, 506, 507, 307, 326 A I.P.C and under Section 3/4 of the Dowry Prohibition Act to CBCID, Lucknow or before any other investigating agency outside Chitrakoot Division.

(b) to issue a writ, order or direction in the nature of mandamus commanding the opposite party no. 1 to pass appropriate orders on the representation preferred by the petitioners contained as Annexure No. 3 to this Writ Petition.

It has been submitted by the learned counsel for the petitioners that mother of the opposite party no. 5, who is Senior Advocate of the District Banda and, therefore, she may influence the investigation being carried out by the police. She has also made

a representation to the opposite party no. 1 to transfer the investigation.

The Court having perused the impugned F.I.R. finds that the petitioners are accused in the F.I.R. and the prayer as made in the writ petition for issuance of a mandamus to transfer the investigation, which cannot be granted by this Court.

No mandamus can be issued unless there is subsisting legal right with the petitioners or corresponding legal of the respondents.

The writ petition is, accordingly, **dismissed**.

Order Date :- 31.10.2023

Anuj Singh