

Case :- WRIT - C No. - 21291 of 2021

Petitioner :- Chaman Aara

Respondent :- State Of U.P. And 4 Others

Counsel for Petitioner :- Satya Dheer Singh Jadaun

Counsel for Respondent :- C.S.C.

Hon'ble Manoj Kumar Gupta,J.

Hon'ble Deepak Verma,J.

In compliance of our order dated 31.08.2021, instructions have been furnished to learned Standing Counsel by the Senior Superintendent of Police, Prayagraj as well as Senior Superintendent of Police, Bareilly. Instructions received by him have been placed on record.

The Senior Superintendent of Police, Prayagraj has taken a stand that Prayagraj police is not involved in investigation of the case. It had only provided logistic support to the police party, which had come from Bareilly to Prayagraj in search of victim and accused. The Senior Superintendent of Police, Bareilly in Para 4 of the instructions has mentioned that on 14.08.2021, police party of District Bareilly went to a house at Muirabad. During course of investigation, it came across petitioner, who disclosed her identity as Advocate of accused persons. The investigator tried to elicit information from the petitioner in relation to accused persons but did not get any satisfactory reply and, thereafter, left the house of the petitioner. It is also mentioned that the police force did not misbehave with the petitioner.

Learned Standing Counsel on instructions states that the investigator sought information from the petitioner during course of investigation to find out the whereabouts of the victim and the accused. The petitioner is neither accused nor a suspect person.

Learned counsel for the petitioner submitted that the investigator had acted wholly malafidely in interrogating the petitioner knowing well that she is only lawyer of accused. He submitted that information available with the petitioner is confidential and immune from disclosure under Section 129 of the Indian Evidence Act, 1872. The investigator had exceeded his authority in subjecting the petitioner to interrogation and forcing her to divulge information regarding accused and victim. He further submitted that even after this Court had taken cognizance of the incident and passed order on 31.08.2021, the police party did not leave the house of the petitioner. He seeks

time to file supplementary affidavit to highlight the illegal acts and conduct of the investigating agency towards the petitioner.

As prayed, put up tomorrow as fresh.

In the meantime, the petitioner is free to file supplementary affidavit.

Having regard to the stand taken by the Senior Superintendent of Police, Bareilly in regard to the petitioner, it is hereby provided that the petitioner shall not be subjected to any kind of harassment in course of investigation of Case Crime No.172 of 2021, under sections 354, 366, 368, 506 I.P.C. & 3/5(1) Uttar Pradesh Prohibition of Unlawful Religious Conversion Ordinance, 2020.

In the meantime, learned Standing Counsel shall obtain specific instructions from Senior Superintendent of Police, Bareilly as to whether phone of the petitioner has been kept on surveillance, as alleged, and, if so, under whose order and on what basis.

(Deepak Verma, J.) (Manoj Kumar Gupta, J.)

Order Date :- 1.9.2021
SKD

Court No. - 39

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Supplementary affidavit filed in Court today is taken on record.

According to assertions made in supplementary affidavit, the police party did not leave the house of the petitioner on 31.08.2021 even after this Court had taken cognizance of the matter and had passed a detailed order noting the contention of learned counsel for the petitioner that the petitioner being an advocate is entitled to benefit of Section 129 of the Indian Evidence Act and cannot be compelled to be a witness or disclose the details of communication with the client. Certain photographs have been annexed with Supplementary affidavit to prove the said fact.

It is pertinent to note that the police party from district Bareilly had come to Prayagraj in course of investigation of Case Crime no.172/2021 under Sections 354, 366, 368, 506 IPC and Section 3/5 (1) of U.P. Prohibition of Unlawful Religious Conversion Ordinance, 2020. It is admitted in the instructions forwarded by Senior Superintendent of Police, Bareilly to learned Standing Counsel that the police party from Bareilly went to the house of the petitioner and subjected her to interrogation.

It is vehemently contended by learned counsel for the petitioner that once it is admitted that the petitioner is

neither accused nor suspect but only an advocate representing the victim and the accused, she could not have been subjected to interrogation against her wish and desire. Further the police party had no business to make frequent visits to the house of the petitioner and create an atmosphere of fear. The said conduct of the police party is outrageous and illegal and in teeth of the observations made by this Court in its previous orders.

Having regard to the assertions made in the Supplementary affidavit, we direct respondents no.2 to enquire into the matter and take appropriate remedial action. He shall file his personal affidavit disclosing the action taken. Respondent no.3 shall remain present on 06.09.2021 before this Court to explain his conduct in relation to interrogation and frequent visits to the home of the petitioner.

Put up as fresh on 06.09.2021.

Learned Standing Counsel Shri Gyanendra Srivastava has undertaken to communicate this order to respondents no.2 and 3 within 48 hours for necessary compliance.

Order Date :- 2.9.2021/pks

(Deepak Verma, J.) (Manoj Kumar Gupta, J.)