
(1998) 11 AHC CK 0149
In the Allahabad High Court
Case No : Criminal M.W.P. No. 9383 of 1995

Dr. Naval Kishore Dubey

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 30-11-1998

Acts Referred:

Citation : (1999) 3 ACR 2767

Hon'ble Judges : R.K. Singh, J;B.K. Roy, J

Bench : Division Bench

Judgement

B.K. Roy and R.K. Singh, JJ.—Following three prayers have been made in this writ petition:

- (i) issue a writ or prohibition restraining the Respondent No. 7 from holding or proceeding with any investigation of Crime No. 485A of 1994, P.S. Kotwali. Fatehpur;
- (ii) issue a writ of mandamus, commanding the Respondent No. 7 not to investigate the case of the Crime No. 485A of 1994, P.S. Kotwali, Fatehpur, and to return the papers to the Court of the Chief Judicial Magistrate. Fatehpur;
- (iii) issue a writ of mandamus or direction in the said nature commanding the Central Bureau of Investigation, New Delhi, to investigate into the case of Crime No. 485A of 1994, P.S. Kotwali, Fatehpur.

2. The main thrust of the submission of Sri S.C. Tyagi, learned Counsel appearing on behalf of the Petitioner is that as allegations were made against the Superintendent of Police, District Magistrate and the Additional District Magistrate. Fatehpur, and accordingly the investigation by the Additional Superintendent of Police, Fatehpur, Respondent No. 7, was wholly uncalled for.

3. From the statement made in paragraph 15 of the counter-affidavit it appears that the aforesaid officers have already been transferred. Further we are of the view that if the police report is alleged to be vitiated on account of bias or causes

otherwise prejudice then it is open for the informant to take recourse of the provisions of the Code of Criminal Procedure and for the Magistrate concerned to take cognizance, if the materials on record justify taking of cognizance. In the aforesaid background we are of the view that it is not a fit case in which the relief?s claimed for should be granted.

4. Before parting it is clarified that any observation made in this order shall not be construed to mean by the Petitioner any expression of our view on merits.

5. With these observations this writ petition is dismissed.

6. The office is directed to hand over a copy of this order within two weeks to Sri Mehrotra, learned A.G.A., for its communication to the authority concerned.