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Court No. - 80

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Case :- APPLICATION U/S 482 No. - 5094 of 2021

Applicant :- Smt. Ramendri

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Awadh Sharma

Counsel for Opposite Party :- G.A., Virendra Singh

Hon'ble Sanjay Kumar Singh, J.

Heard Shri Awadh Sharma, learned counsel for the applicant, Shri Ram Pal Singh, learned Additional Government Advocate-I assisted by Shri Prashant Kumar Singh, learned Brief Holder representing the State of U.P. and Shri Virendra Singh, learned counsel for the first informant, opposite party No. 2.

By means of this application under Section 482 Cr.P.C., the applicant has prayed for quashing of entire proceedings of Case No. 4692 of 2020 (State Vs. Jitendra and others), arising out of Case Crime No. 117 of 2020, under Section 498-A, 304-B IPC and $\frac{3}{4}$ of Dowry Prohibition Act, police station Salempur, district Bulandshahr, pending in the Court of Chief Judicial Magistrate, Bulandshahr.

A preliminary objection has been raised by the learned counsel for the opposite party No. 2 by pointing out that the applicant has not approached this Court with clean hand and has filed successive applications by concealing the material facts and documents.

In short compass, the facts giving rise to the

present application are that a first information report was lodged by opposite party No. 2, Deepak Kumar at case crime No. 117 of 2020, under Sections 498-A, 304-B and 3/4 of Dowry Prohibition Act, police station Salempur, district Bulandshahr arraigning therein as many as four accused namely Jitendra (husband), Pawan (Jeth) Smt. Ramendri (mother-in-law) and Satpal (father-in-law) of the deceased Anjali inter alia with the allegations that marriage of his sister-Anjali was solemnized with Jitendra on 16.2.2020 in which about 10-12 lakhs were spent. Since, the in-laws of his sister were not satisfied with the dowry, they used to mentally torture his sister for bringing additional dowry of Rs. 500,000/- or a Car. The report further indicates that when the complainant visited his sister at Kiswagarhi, she narrated the ill treatment met to her by her in-law and thereafter she was beaten and threatened of dire consequences by her in-laws in case their demand of additional dowry is not fulfilled. Thereafter, his sister is living in her maternal house (*Maika*). On 14.6.2020 at about 10.00 PM, she received a call from the side of her husband and thereafter she went on depression and at about 1/1.30 AM on 15.6.2020, she committed suicide.

After lodging of the FIR, the applicant has approached this Court by filing Criminal Misc. Anticipatory Bail Application No. 5675 of 2020, which was disposed of vide order dated 3.12.2020 directing the applicant to surrender before the court below within three months and

till then, interim protection was granted to her. However, when the order dated 3.12.2020 was in operation, the applicant has filed the instant application under Section 482 Cr.P.C No. 5094 of 2021 on 05.2.2021 for quashing the entire proceedings of the aforesaid case concealing the aforesaid order dated 03.12.2020, whereas Mr. Awadh Sharma, who is counsel for the applicant in the instant application was also counsel in Criminal Misc. Anticipatory Bail Application No. 5675 of 2020. When, the case was taken up on 15.2.2022, learned counsel for the applicant sought adjournment on the ground that he could not inform the opposite party No. 2. During the pendency of this application, the applicant also challenged the order of this Court dated 3.12.2020 passed in Criminal Misc. Application No. 5675 of 2020, before the Supreme Court by filing Special Leave to Appeal (Crl.) No. 5203 of 2021 on 28.6.2021, which was registered in diary at serial No. 14233 of 2021. The said appeal was dismissed by the Supreme Court vide order dated 29.7.2021 directing the appellant/applicant to surrender within two days before the trial court in compliance of the order of the High Court dated 03.12.2020. Thereafter, the regular bail application of the applicant was directed to be decided expeditiously by the trial court.

However, the applicant has chosen not to comply with the order of the Supreme Court dated 29.7.2021 as well as this Court dated 03.12.2020. It appears that during the pendency of this application, non-bailable

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warrant was issued against the applicant on 01.4.2021, the legality thereof was challenged by the applicant by filing another application under Section 482 Cr.P.C. No. 1152 of 2020 through another advocate Mr. Rama Shankar Mishra, who was also one of the counsel in Criminal Misc. Anticipatory Bail Application No. 5675 of 2020, concealing the order of the High Court dated 03.12.2020 and that of the Supreme Court dated 29.7.2021. The said application was disposed of vide order dated 21.2.2022 directing the applicant to appear and surrender before the court below within two weeks. The said order dated 21.2.2022 also did not bring to the notice of this Court by the learned counsel for the applicant during his argument.

When learned counsel for the applicant was confronted with the aforesaid facts, he became speechless and did not dispute the aforesaid factual aspect of the matter.

Having heard the submissions of the learned counsel for the parties and examining the matter in its entirety, I am of the considered view that the applicant has no respect to the orders of the Supreme Court as well as this Court. Furthermore, he has not approached this Court with clean hand and filed this application suppressing the material facts in sheer disobedience of the orders of Supreme Court as well as this Court. Therefore, she does not deserve any indulgence by this Court.

The courts of law are meant for imparting justice between the parties. One, who comes to the court, must come with clean hands and no material facts should be concealed. I am constrained to hold that more often the process of the court is being abused by unscrupulous litigants to achieve their nefarious design. I have no hesitation in saying that a person, whose case is based on falsehood, has no right to approach the court. He/she can be summarily thrown out at any stage of the litigation. The judicial process cannot become an instrument of oppression or abuse or a means in the process of the Court to subvert justice, for the reason that the Court exercises its jurisdiction, only in furtherance of justice.

Time and again the issue of abuse of process of law has come up before the Supreme Court as well as High Courts. The Courts have, over the centuries, frowned upon litigants, who, with intent to deceive and mislead the courts, initiated proceedings without full disclosure of facts.

In **Arunima Baruah Vs. Union of India** (2007)6 SCC 120, Supreme Court held that it is trite law that to enable the Court to refuse to exercise its discretionary jurisdiction suppression must of material fact. Material fact would mean material for the purpose of determination of the lis. It was further held that a person invoking the discretionary jurisdiction of the court cannot be allowed to approach it with a pair of dirty hands.

In **Prestige Lights Limited Vs. State Bank of India** (2007)8 SCC 449, Apex Court held as under:

"It is well settled that a prerogative remedy is not a matter of course. In exercising extraordinary power, therefore, a Writ Court will indeed bear in mind the conduct of the party who is invoking such jurisdiction. If the applicant does not disclose full facts or suppresses relevant materials or is otherwise guilty of misleading the Court, the Court may dismiss the action without adjudicating the matter. The rule has been evolved in larger public interest to deter unscrupulous litigants from abusing the process of Court by deceiving it. The very basis of the writ jurisdiction rests in disclosure of true, complete and correct facts. If the material facts are not candidly stated or are suppressed or are distorted, the very functioning of the writ courts would become impossible."

In **Udyami Evan Khadi Gramodyog Welfare Sanstha and another Vs. State of U.P. and others**, (2008)1 SCC 560, the appellant-Sanstha applied for loan for establishment of an industry, which was sanctioned. The appellant-Sanstha allegedly defaulted in making payment. The recovery proceedings were initiated against it, writ petitions were filed questioning the legality thereof. Public Interest Litigation was also filed. However, fresh recovery proceedings were initiated which were not the subject matter of challenge in the writ petitions filed

by the appellants before the High Court. A fresh writ petition was filed. The same has been dismissed by the High Court as non-maintainable by holding that the petitioners have suppressed the material facts, i.e. filing of four writ petitions on the same cause of action. The validity of that order was challenged before the Apex Court. The Apex Court dismissed the appeal with costs of Rs. 50,000/-. The Court held as under:

"A writ remedy is equitable one. Any person approaching a superior court must come with a pair of clean hands. It neither should suppress any material fact, but also should not take recourse to the legal proceedings over and over again which amounts to abuse of the process of law.

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For the reasons aforementioned, there is no merit in this appeal which is dismissed accordingly with costs. Counsel's fee quantified at Rs. 50,000/-"

In **K.D Sharma Vs. Steel Authority of India Limited and others**, (2008)12 SCC481, Supreme Court held that no litigant can play "hide and seek" with the courts or adopt "pick and choose". To hold a writ of the court one should come with candid facts and clean breast. Suppression or concealment of material facts is forbidden to a litigant or even as a technique of advocacy. In such cases the Court is duty bound to discharge rule

nisi and such applicant is required to be dealt with for contempt of Court for abusing the process of the court.

Supreme Court in **Dalip Singh Vs. State of Uttar Pradesh and others**, (2010)2 SCC 114 came down heavily on unscrupulous litigants by holding that it is now well established that a litigant who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final.

Having considered the factual aspect of the case and the dictum of the Supreme Court, I am of the considered view that the applicant has misused the process of law by filing successive applications before this Court suppressing the material facts and documents and misled the Court. Honesty, fairness, purity of mind should be of the highest order to approach the court, failing which the litigant should be shown the exit door at the earliest point of time.

In view of the verbose discussion, the application is rejected with costs, which is quantified at Rs. 25,000/- (rupees twenty five thousand only) to be deposited by the applicant within one month with the Registrar General of this Court, failing which the same shall be recovered from the applicant as arrears of land revenue. After deposit of the amount, the Registrar General shall forward the same to the account of Rajkiya Bal Greh Shishu, Allahabad being Account No. 3785336735, State Bank of India, Khuldabad Branch, Prayagraj, IFSC Code SBI N0002560,

Micro Code 211002015, which shall be used for the welfare of the children.

Order Date: 24.2.2022

Ishrat