

Court No. - 92

Case :- APPLICATION U/S 482 No. - 1112 of 2012

Applicant :- Ashok And Others

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

Counsel for Applicant :- P.K. Singh, Pankaj Sharma, Prashant Sharma

Counsel for Opposite Party :- Govt. Advocate

Hon'ble Anish Kumar Gupta, J.

1. Heard Sri Ajay Singh Sanger, Advocate holding brief of Sri Prashant Sharma, learned counsel for the applicants and Sri Prem Prakash Tripathi, learned A.G.A. for the State.

2. The instant application under Section 482 Cr.P.C. has been filed seeking quashing of the entire proceedings of Complaint Case No. 1027 of 2010 (Harendra Singh vs. Ashok and Others) u/S 323, 504, 506, 452 I.P.C., pending in the Court of Additional Civil Judge, (J.D.)/J.M., Court No. 2, Mahamaya Nagar (Hathras).

3. On 11.01.2012, this Court has passed the following order:

"Heard learned counsel for the applicants and perused the impugned order.

Notice on behalf of opposite party no. 1 has been accepted by learned A.G.A. He prays for and is allowed six weeks' time to file counter affidavit.

Issue notice to opposite party no. 2, who may also file counter affidavit within the same period.

Rejoinder affidavit, if any, may be filed within two weeks thereafter.

List after eight weeks before the appropriate Court.

It is contended by learned counsel for the applicants that the impugned complaint has been filed by the opposite party no. 2 containing absolutely false and vexatious allegations against the applicants, whose fair price shop agreement was cancelled on the basis of inquiry conducted by the applicant no. 1 on complaint filed by the ration card holders against him, with the intention of wreaking vengeance upon the applicants.

Submissions made by learned counsel for the applicants, prima facie, appear to be correct and they have made out a case for grant of interim relief.

In this view of the matter, till the next date of listing no coercive action shall be taken against the applicants in Complaint Case No. 1027 of 2010, under Sections 323, 504, 506, 452 I.P.C. pending before the Additional Civil Judge (J.D.)/J.M., Court No. 2, Mahamaya Nagar (Hathras)."

4. In terms of the aforesaid orders notices were served on the opposite party no.2

and the services report dated 27.03.2012, is available on record. Despite the service on the opposite party no.2, none has appeared on behalf of the opposite party no.2, till date and more than eleven years have passed. The State has also failed to file any counter affidavit in the instant case.

5. Learned counsel for applicants submits that the opposite party no.2 was the Fair Price Shop dealer and since there were various complaints against the opposite party no.2, therefore, the applicant no.3 herein, Hakim Singh, the Food Supply Inspector, had filed an F.I.R., against the opposite party no.2 after the inspection conducted as per directions issued by this Court in Writ Petition No. 6111 of 2009 and after the inspection when the allegations were found true against the opposite party no.2, the F.I.R., being Case Crime No. 331 of 2010 u/S 317 of Essential Commodities Act, was registered against the opposite party no.2 on 23.02.2010. As a counterblast to the said F.I.R., the opposite party no.2 has filed the present complaint case after a gap of about four months, alleging an imaginary and concocted incident of 22.02.2010 whereas the said complaint was filed on 17.06.2010. The applicant no.1 was the village Pradhan of the said village at the relevant time and applicant no.2 is the brother of the applicant no.1 and the applicant no.3 is the Food Supply Inspector, who has filed the F.I.R., against the opposite party no.2 after due inspection of the complaints made against the opposite party no.2 as per the direction of this Court. Therefore, the instant complaint is false, frivolous, vexatious and has been filed with mala fide intentions by the opposite party no.2 as an afterthought. Therefore, learned counsel for the applicants prays for quashing of the entire proceedings of the said complaint case against the applicants herein.

6. Learned counsel for the State submits that since the inspection was conducted by the applicant no.3 in the Fair Price Shops of the opposite party no.2 and having found the irregularities, the F.I.R. No. 331 of 2010, was lodged under the provisions of Section 317 of the Essential Commodities Act, against the applicants. In vengeance of the said F.I.R., lodged by the competent officer against the opposite party no.2. If such a complaint is entertained then no Government Officer will be able to fairly investigate and report the cases against the wrong doers. Therefore, the learned counsel for the State submits from the material available before the Court and the complaint which is lodged after four months of the alleged incident in vengeance is not sustainable and is liable to be quashed.

7. Having heard the submissions made by learned counsels for the parties, this Court has carefully gone through the record of the case. In the instant case, it is apparent from the F.I.R., lodged against the opposite party no.2 by the applicant no.3 that in terms of the direction of this Court in Writ Petition No. 61114 of 2009, the applicant no.3 herein has conducted the inspection in the Fair Price Shop of the opposite party no.2, having regard to the complaints made against him and having found the irregularities in the distribution of the ration to the relevant persons, the F.I.R. was lodged by the applicant no.3 against the opposite party no.2 and in vengeance, the instant complaint has been lodged by the opposite party no.2 on false and concocted story of demand of bribe etc., against the applicant no.3 as well as the applicant nos. 1 and 2, and the applicant no.1,

who was the village Pradhan at the relevant time and who had supported the allegations against the opposite party no.2. Therefore, the instant complaint case lodged by the opposite party no.2, prima facie appears to be false, vexatious and concocted and has been filed by the opposite party no.2 in vengeance of the F.I.R., lodged against him by the applicant no.3, as an afterthought. Therefore, the incident application deserves to be **allowed** in terms of the judgements of the Apex Court in ***State of Haryana & Ors. vs. Bhajan Lal : 1992 SCC (Cri) 426, R. P. Kapoor Vs. State of Punjab, AIR 1960 S.C. 866 etc.***

8. Therefore, instant application is **allowed** and the entire proceedings of Complaint Case No. 1027 of 2010 (Harendra Singh vs. Ashok and Others) u/S 323, 504, 506, 452 I.P.C., pending in the Court of Additional Civil Judge, (J.D.)/J.M., Court No. 2, Mahamaya Nagar (Hathras), are hereby **quashed**.

Order Date :- 3.11.2023

Shubham Arya