

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD
SITTING AT LUCKNOW

Neutral Citation No. - 2023:AHC-LKO:80581-DB

Judgment reserved on 30.11.2023
Judgment delivered on 08.12.2023

Court No. - 4

Case :- WRIT - C No. - 3369 of 2023

Petitioner :- Most Rev. John. Augustine

Respondent :- High Court Of U.P. Thru. Its Registrar General
Prayagraj And Lko. And Others

Counsel for Petitioner :- Asok Pande

Counsel for Respondent :- Gaurav Mehrotra, Shishir Jain, Shiv P.
Shukla, Utsav Mishra

Hon'ble Rajesh Singh Chauhan J.

Hon'ble Subhash Vidyarthi J.

(Per Hon'ble Subhash Vidyarthi J.)

1. Heard Sri. Asok Pande, the learned Counsel for the petitioner, Sri. Shishir Jain, the learned Counsel for the respondent no. 1 – the High Court of Uttar Pradesh and Sri. Utsav Mishra, the learned Counsel for the respondent no. 3.
2. The petitioner has alleged in the writ petition that the respondent No.3 had sent a letter dated 24.05.2018 to the Hon'ble Chief Justice of this Court and the Hon'ble Senior Judge of this Bench alleging that a learned counsel had collected a huge amount in the name of two Hon'ble Judges. The letter written by respondent No.1 was opened by the Division Bench hearing Special Appeal No. 233 of 2015 on 28.05.2018 and the petitioner has no doubt that the letter was written by respondent No.1 with the sole object of bench hunting and after the petitioner has initiated criminal proceedings, respondent No.1 has denied having written the letter. The petitioner has approached the Hon'ble Chief Justice for issuing a direction for holding an enquiry into the matter and by ordering prosecution of the persons who committed the fraud and cheating in the matter. Thereafter he has filed the writ petition with following prayers:-

“(i) Issue a writ order or direction in the nature of writ of Mandamus to direct the authority concern (Respondent No One) for initiating CBI/JUDICIAL/SIT enquiry to enquire into the matter of the application dated 24.05.2018 moved in Special Appeal No.233 of 2015 to Chief Justice of Uttar Pradesh and Senior Judge of the Lucknow Bench by R K Chatree (opposite party no.3) through which he leveled bribe charges against the judges, which was later on removed from the file.

(ii) Issue any other suitable writ, order or direction which the Hon’ble Court may deem fit and proper in the circumstances of the case as also in the interest of justice.

(iii) Allow this writ petition with costs.”

3. Sri Shishir Jain, the learned counsel for respondent No.1- High Court of U.P. has submitted that the alleged letter dated 28.05.2018 is not a part of the record of this Court relating to any case and it does even find a mention in any of the orders passed by this Court. He has submitted that in para 6 of the writ petition, the petitioner has stated that on the next day, someone had provided an extract of copy of that letter, which has been reproduced in para 6 of the writ petition, but neither that copy has been annexed nor the name of that ‘someone’ has been disclosed in the writ petition. Sri. Jain has further submitted that even if the letter was placed before the Division Bench of this Court, the Bench before which the letter was placed decided not to take cognizance of the letter and not to initiate any action on the basis thereof. In such circumstances, Writ Jurisdiction of this Court should not be invoked for a ordering a roving inquiry on the basis of baseless allegations.
4. The learned counsel for respondent No.3, Sri Utsav Mishra has also submitted that the alleged letter dated 28.05.2018 is not a part of the record of this Court relating to any case and it does even find a mention in any of the orders passed by this Court and the respondent no. 3 has denied having written the letter. He has further submitted that the petitioner has lost all stages of litigation and thereafter he has filed this Writ Petition, which is a gross abuse of the process of the law.
5. I have heard the submissions made by the learned counsel for the parties. The petitioner has approached the Hon’ble Chief Justice for issuing direction for holding an enquiry into the matter and by ordering

prosecution of the persons who committed the fraud and cheating in the matter. The entire averments made in the writ petition have been verified on the basis of personal knowledge of the petitioner whereas the alleged letter was neither addressed to nor was it delivered to the petitioner and it is not the petitioner's case that he had obtained a certified copy of his letter or was otherwise provided its copy.

6. The Grounds taken in the Writ Petition are as follows:-

“A. Because to write the letter to chief justice charging the Advocate and judges and when the contempt notice is issued, then to deny the moving of said letter, is serious matter and so needs high level enquiry.

B. Because the petitioner moved appropriate application in the criminal contempt petition as well as to the chief justice but no action was taken hence having no option, he filed this writ petition.

C. Because the counsel for respondent Mr. R K Chatree and the high court staff may be having role in removal of the letter dated 24/5/2018 from the record of the case and as such only the high level enquiry will be able to find out the truth.”

7. For issuing a Writ in the nature of Mandamus, the existence of an enforceable legal right and a corresponding duty, is a pre-requisite. In the present case, the petitioner has not even alleged the existence of any legally enforceable right and he has not alleged failure of performance of a corresponding duty. Therefore, the Writ Petition cannot be entertained.
8. The learned Counsel for the petitioner has relied upon an order of the High Court of Andhra Pradesh at Amaravati in the case of **High Court of Andhra Pradesh at Amaravati, Rep. by its Registrar General Versus State of Andhra Pradesh, Represented by its Secretary, Department of Law and Legislative Affairs and Others**, 2020 SCC OnLine AP 1019. The aforesaid Writ Petition was filed by the High Court of Andhra Pradesh, at Amaravati primarily with a view to protect its entity from the attack of some of antisocial elements in the State by posting defamatory messages against the High Court Judges on Social Media. Several complaints had been made in this regard and some F.I.Rs. had also been registered.

Without going into the merit of the case or without recording any observations against either of the parties, the High Court entrusted all the matters to Central Bureau of Investigation as agreed by all the parties.

9. In the present case, no defamatory statement has been published by any person. The contents of the alleged letter dated 24.05.2018 were read by the Judges forming the Division Bench alone and they decided not to reproduce the contents of the letter in their order or to make the letter a part of the record. The contents of the letter have been reproduced by the petitioner himself, although the letter was not addressed to the petitioner and its copy was not provided to him. Therefore, no person, other than the petitioner himself, has done any act which may amount to publication of any defamatory material. Therefore, the facts of the aforesaid case were in any way not similar to the facts of the present case.
10. Moreover, **High Court of Andhra Pradesh at Amaravati, Rep. by its Registrar General** (Supra) is an order passed on the basis of agreement of all the parties. Nothing has been decided therein and, therefore, it is not even a 'judgment'. No principle of law has been laid down in that order which may be treated to be a precedent. Therefore, the aforesaid order would be of no avail for adjudication of the present case.
11. The other order relied upon by the learned Counsel for the petitioner is an order dated 29.05.2017 passed by a Division Bench of this Court in PIL No. 1330 of 2017 titled **Lawyers Civilian Society through its Secretary versus State of U. P. and 13 others**. The petitioner had leveled allegations of commission of forgery and fraud with the High Court and the Supreme Court by filing Writ Petitions in the name of fake and dead persons. F.I.R.s had already been lodged in this regard and charge-sheets were submitted, but the same had been taken back by the Investigation Officer. The Division Bench ordered the matter to be placed before the litigation committee, which recommended lodging of another F.I.R. The Writ Petition was disposed off with a direction to the Registrar General to take further steps for complying

with the decision taken by the Litigation Committee. No point of law was decided in this case also, which may be treated as a binding precedent to be followed in the present case.

12. The petitioner had filed Special Appeal No. 233 of 2015 against the judgment and order dated 28.05.2015 passed by an Hon'ble Single Judge, whereby the Writ Petition was allowed, a reference made to the Prescribed Authority under Section 25 (1) of the Societies Registration Act was set aside leaving it open to the opposite party no. 3 to get his rights declared in a Regular Suit and the matter of list of office bearers and members of the general body of the society was remanded to the Deputy Registrar for taking a decision afresh in light of Sections 4 and 4-B of the Societies registration Act and it was clarified that any observations made in the order dated 28.05.2015 passed in the Writ Petition shall not prejudice the rights of the parties in any proceedings.
13. During hearing on the Special Appeal on 28.05.2018, a letter dated 24.05.2018 addressed to the Hon'ble Chief Justice and the Hon'ble Senior Judge was allegedly placed before a Division Bench of this Court, in which it was alleged that an Advocate representing the petitioner had collected a huge amount in the name of the Hon'ble Judges constituting the Division Bench, as such the respondent had no hope to get justice from the said Division Bench. The Hon'ble Judges forming Bench recused themselves from hearing the Special Appeal. Thereafter the Special Appeal was listed before several Benches on several dates and ultimately it was dismissed on 12.07.2022.
14. The petitioner had challenged the order dated 12.07.2022 by filing S.L.P. (C) No. 14338 of 2022, which was dismissed by means of an order dated 09.09.2022, leaving it open to the petitioner to workout the remedies in terms of the order passed in Special Appeal. Instead of availing his remedies as observed in the order dated 28.05.2015 passed by the Hon'ble Single Judge while allowing the Writ Petition, which had been affirmed by the Division Bench in the judgment dated 12.07.2022 passed in the Special Appeal, the petitioner filed Civil

Misc. Review Application No. 142 of 2022, which was dismissed the special leave petition on 22.11.2022.

15. The petitioner challenged the order dated 22.11.2022 by filing S.L.P. 1839 of 2023. The S.L.P. was filed *inter alia*, included the grounds on which the contempt application has been filed. The Hon'ble Supreme Court has dismissed on 10.02.2023 by the following order: -

*“The Special leave petition against the substantive order was dismissed on 09.09.2022, being SLP(Civil) No. 14338/2022. We had observed that the petitioner is left to work out any remedy in terms of the impugned order. **The petitioner has chosen to file a review application before the High Court without any liberty from this Court. In the Review application aspersions are cast on the Bench as also the methodology of hearing the original order which has been sustained in the SLP, including, jurisdiction of the learned Single Judge and matter being heard by the Division Bench with an additional Judge as a member etc. Now, once that is rejected, another SLP is filed against that order.***

At the inception itself, we have put to the learned counsel for the petitioner that even if review is permitted and no liberty is granted to come back to this Court, a SLP cannot be filed in view of the judgment of this Court in the case of Municipal Corporation of Delhi vs. Yashwant Singh Negi (2020) 9 SCC 815. In the present case, not even a liberty was granted. Thus the impugned order now passed, dated 11.11.2022, only against the review order is not maintainable.

Learned counsel refuses to listen and insist that he is entitled to argue the SLP. Thus, we have once again heard learned counsel for the petitioner for some time.

We find the endeavour made by the petitioner is a gross abuse of the process of Court, apart from being against the law qua entertainment of SLP only against the Review order.

We thus dismiss the SLP with costs of Rs. 20,000/- to be deposited with the Supreme Court Mediation and Conciliation Project Committee (MCPC) within four weeks from today.”

16. The filing of this Writ Petition regarding a letter allegedly produced before a Division Bench of this Court on 28.05.2018, has been filed on 20.04.2023, after the petitioner has exhausted all the remedies. The Supreme Court has already adjudicated petitioner's claim on the basis of aforesaid pleadings and has dismissed the S.L.P. by means of the order dated 10.02.2023 after observing that the S.L.P. (Civil)

No.14338 of 2022 filed against the substantive order had been dismissed on 09.09.2022. Thereafter, the petitioner had filed a review application before this Court casting aspersion on the Bench as also methodology of hearing the original order, which had been suspended in the S.L.P. and, thereafter he has filed another S.L.P. The Hon'ble Supreme Court held that 'we find the endeavour made by the petitioner is a gross abuse of the process of the Court, apart from being against the law *qua* **entertain** the SLP only against the review order.' The Hon'ble Supreme Court dismissed the S.L.P. with cost of Rs.20,000/-.

17. The Writ Petition filed after decision of the Supreme Court, without disclosing the existence of any legally enforceable right and infringement thereof, is a clear abuse of the process of law.
18. Accordingly, the Writ Petition is **dismissed**.
19. Keeping in view the fact that the precious time of the Court has been wasted in deciding the misconceived petition which is an abuse of the process of law, the petitioner is ordered to pay Rs. 25,000/- as the cost of the litigation, which shall be deposited with the registry of this Court within a period of 30 days, failing which the Senior Registrar shall initiate proceedings for recovery of the amount by sending a Recovery Certificate to the Collector concerned, who shall recover the amount as arrears of land revenue and shall remit the same to this Court within a period of three months from the date of issuance of the Recovery Certificate.
20. The Senior Registrar of this Court is directed to transmit the cost amount to Children Home (Girls), Lucknow, which is being run and maintained under the Department of Women and Child Development, Government of U.P.

[Subhash Vidyarthi, J.] [Rajesh Singh Chauhan, J.]

Order Date - 08.12.2023

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