

Court No. - 12

Case :- APPLICATION U/S 482 No. - 2958 of 2018

Applicant :- Indiatvnews Thru. Chairman Mr. Rajat Sharma And
Ors

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

Counsel for Applicant :- Nadeem Murtaza, Imran Ullah

Counsel for Opposite Party :- Govt. Advocate, Pranshu
Agarwal, Raghvendra Pandey, V.K. Shahi

Hon'ble Rajeev Singh, J.

1. Heard Sri J.N. Mathur, Senior Advocate assisted by Mr. Imran Ullah, Mr. Nadeem Murtaza & Sri Anjani Kumar Mishra, learned counsel for the applicants, learned A.G.A. for the State and Sri Avinash Singh Bisen, learned counsel for the respondent no.2.

2. The present application under Section 482 Cr.P.C. is filed with the prayer to quash the proceeding of Complaint Case No.2802 of 2017, pending in the court of learned Additional Chief Judicial Magistrate, Court No.28, Lucknow in pursuance of summoning order dated 5.2.2018 under Sections 500, 501, 502 I.P.C. and N.B.W. order dated 8.5.2018.

3. Learned counsel for the applicants has submitted that applicant no.2 is the Chairman and Editor-in-Chief of India TV news channel and also well known journalist in the media world. He next submitted that applicant no.3 is presently the Managing Director and Chief Executive Officer of Independent News Service Pvt. Ltd. He further submitted that complaint in

question was filed by the private respondent with the allegation that he belongs to a reputed family and working as a Judicial Officer since, August, 1985, in the month of January, 2017, he was posted as District and Sessions Judge, Lucknow, and on 25.4.2017, bail application of Gayatri Prajapati, Ex Minister, Government of U.P. was allowed by Mr. O.P. Mishra, Additional District and Sessions Judge, Court No.1, Lucknow. On the same day at morning at 11:30 A.M., a man fell from a multi storey building of the campus, who died on the spot, after getting the information, he reached on the spot and took necessary action and body of the deceased was sent to Balrampur Hospital and thereafter, between 12:15 to 12:30 Noon, he came to know about the aforesaid bail order, he called a report from the concerned court and referred the matter to the Registrar General for bringing the facts into the knowledge of Hon'ble High Court and on the same date, the bail order passed by Mr. O.P. Mishra was stayed by the High Court, enquiry was ordered & Mr. O.P. Mishra was placed under suspension and charge sheet was also given to him and on 10.6.2017, Indiatvnews.com published a defamatory news item dragging the private respondent.

4. Learned counsel for the applicant submitted that the case of complainant is that on 10.6.2017 a news item was published with the heading that the Supreme Court collegium recalls

judges nomination to High Court after allegation of corruption in awarding bail to Gayatri Prajapati and aforesaid news item was relied on the report in the 'Times of India' that intervention took place after the Chief Justice of Allahabad High Court received the I.B. report and ordered for further enquiry into the matter as the I.B. report reveals the involvement of POCSO Judge, District & Sessions Judge, Lucknow and three advocates.

5. Learned counsel for the applicants has submitted that a legal notice was given by the private respondent dated 30.11.2017 on the basis of incorrect facts and on 19.12.2017, reply was given to the notice of the private respondent. He next submitted that in the entire news item the name of private respondent did not find place, as the news item was published on the basis of some correspondence between Hon'ble The Chief Justice of U.P. as well as Hon'ble The Chief Justice of India based on some I.B. report and the said news was published for public in good faith. He also submitted that learned court below has wrongly issued summoning order in the most mechanical manner without considering the law laid down by Hon'ble Apex Court in the case of **Pepsi Food Ltd. & Anr. Vs. Special Judicial Magistrate & Ors.** reported in (1998) 5 SCC 749 and submitted that summoning of an accused in a criminal case is a serious matter and criminal law cannot be set

into motion as a matter of course. He further submitted that in the impugned order, it is mentioned that transaction of Rs.10 crore was taken place in deciding the bail application of the Former Minister, Gayatri Prajapati. He also submitted that it is well settled by the Apex Court in the case of **Jawahar Lal Darda & Ors. Vs. Manoharrao Ganpatrao Kapsikar** reported in (1998) 4 SCC 112 that accurate reporting of facts by the media does not comes into category of '*defame*' and this view is related to the Apex Court in the case of **Aroon Purie Vs. Stat of NCT of Delhi & Ors.** reported in 2022 SCC Online SC 1491, therefore, indulgence of this Court is necessary and present application may be allowed by quashing the complaint in question.

6. Learned counsel for the respondent opposed the prayer of the applicants and submitted that there is no illegality in the order passed by the court below and all defence can be raised by the applicant before the court below. He also submitted that onus of proving all ingredients mentioned in the exception clause of 499 of I.P.C. lies on the accused and the same is to be explained before the trial court at the appropriate stage and relied on the decision of Apex Court in the case of **Chamanlal Vs. State of Punjab** reported in 1970 1 SCC 590.

7. As in pursuance of earlier order, the office copy of the alleged correspondence between the High Court and Hon'ble Supreme Court is placed before this Court by learned Senior

Registrar and it was found that as the incident was reported by the Hon'ble Chief Justice of this Court to the Hon'ble Supreme Court based on some I.B. report, as it is also undisputed fact that copy of letter dated 3.5.2017 was placed before this Court which was handed over to complainant counsel on 24.1.2018 in Application U/S 482 No.80/2018 but the averment of the said letter are not denied by counsel for the complainant and it is also evident that copy of letter provided to counsel for the complainant earlier is identical with the office copy produced by the learned Senior Registrar.

8. Considering the submissions of learned counsel for the parties, going through the record of the application, statement recorded under Section 200 and 202 Cr.P.C., alleged news item, complaint of the private respondent as well as impugned order passed by the court below, as it is evident from the record that neither in the complaint nor in the statement of private respondent, there is any whisper of transaction of Rs.10 crore but in the impugned order, emphasis is given by the learned court below that Rs.5 crore was given to the private respondent for allowing the bail of Former Minister of Government of U.P. by Mr. O.P. Mishra, Additional District and Sessions Judge. It is very much clear that said news item was based on some correspondence between Hon'ble the High Court and Hon'ble Supreme Court, therefore, the action of the applicants is

squarely covered in the Exception (1) & (3) of Section 499 I.P.C, therefore, this Court is of the view that proceeding in question is a sheer abuse of legal provisions, and as no alleged offence is made out, accordingly, the impugned proceeding is hereby quashed.

9. Hence, the present application under Section 482 Cr.P.C. is allowed.

Order Date :- 22nd December, 2023

Gaurav/-