

Neutral Citation No. - 2024:AHC-LKO:51287

AFR

Court No. - 13

Case :- APPLICATION U/S 482 No. - 6477 of 2024

Applicant :- Ravendra Shukla And Another

Opposite Party :- State Of U.P. Thru. The Prin. Secy. Home Civil Secrty.
Govt. Lko. And Another

Counsel for Applicant :- Arvind Kumar Pathak

Counsel for Opposite Party :- G.A.,M. E. Khan,Shashi Kant Mishra

Hon'ble Saurabh Lavania,J.

1. Heard Shri Gurudutt Pandey, learned counsel for the applicants, learned A.G.A. for the State as well as Shri Shashi Kant Mishra, learned counsel appearing for opposite party No.2 and perused the record.
2. The applicants, namely, Ravendra Shukla and Kumari Mamta, have approached this Court seeking following main reliefs:-

"(a) To allow the petition and quash the impugned Charge sheet No. 221 of 2021 dated 09-06-2021 in Case Crime no. 0037/2021 under Section 419, 420, 504 and 506 I.P.C, Police Station Cantt, District Ayodhya along with Cognizance Order dated 03-02-2022 passed by the learned ACJM-I, Faizabad bearing Case No. 258 of 2022, annexed here with as Annexure Nos. 9 and 10 respectively and set aside the Revision Order.

(b) To quash the entire proceeding of Criminal Case No. 258 of 2022: State of U.P. vs Mamta and others arises out of Crime No. 0037/2021 under Section 419, 420, 504, and 506 I.P.C. registered at Police Station Cantt, Ayodhya.

(c) To stay the operation and implementation of the proceeding pending before the learned Trial Court A.C.J.M-I of District, Ayodhya, registered as Case No: 258 of 2022: State of U.P. vs Mamta and others, during the pendency and final disposal of the instant petition."

3. From the material available on record, it is apparent that applicants approached this Court by means of **Application U/s 482 No.5705 of 2022** **"Mamta and Another Vs. State of U.P. and Another"** challenging the

charge sheet No.221 of 2021 dated 09.06.2021 in Case Crime No.037 of 2021 under Sections 419, 420, 504 and 506 I.P.C., Police Station- Cantt, District- Ayodhya and also the summoning order dated 03.02.2022 passed by ACJM-I, Faizabad now Ayodhya bearing Case No.258 of 2022.

4. The above indicated **Application U/s 482 Cr.P.C. No.5705 of 2022** was disposed of on 26.08.2022. The order dated 26.08.2022 reads as under:-

"1. Present petition under Section 482 Cr.P.C. has been filed seeking quashing of the proceedings of Charge-sheet No.221 of 2021 dated 09.06.2021 in Case Crime No.037 of 2021 under Sections 419, 420, 504, 506 IPC, Police Station Cantt, District Ayodhya along with summoning order dated 03.2.2022 passed by learned ACJM-I, Faizabad bearing Case No.258 of 2022.

2. Learned counsel for the petitioners submits that the petitioners want to surrender and apply for regular bail. Only prayer is that while considering the bail application of the petitioners, trial Court should take into consideration order dated 07.10.2021 read with judgment dated 11.07.2022 of the Supreme Court rendered in the case of Satender Kumar Antil vs Central Bureau of Investigation & Ors: SLP(Crl) No.5191 of 2021.

3. Considering the aforesaid submission, present petition is disposed of with liberty to the petitioners to surrender before the trial Court within a period of 15 days and apply for regular bail. Trial Court is directed to consider the bail application of the petitioners in accordance with law and also take into account the order of the Supreme Court in the case of Satender Kumar Antil (supra)."

5. It appears from the above quoted order that the charge sheet No.221 of 2021 dated 09.06.2021 in Case Crime No.037 of 2021 under Sections 419, 420, 504 and 506 I.P.C., Police Station- Cantt, District- Ayodhya, which has also been challenged in the instant case, was assailed and summoning order was also assailed and thus, it is apparent that entire proceedings of Criminal Case No.258 of 2022 *"State vs. Mamta and another"* arising out of Case Crime No.037 of 2021 was challenged and the counsel for the applicants did not press the prayers sought in the earlier petition and prayed for seeking benefit of judgment passed by the Hon'ble Apex Court in the case of *Satendra Kumar Antil Vs. Central Bureau of Investigation and another (Special Leave to Appeal (Crl.) No.5191 of 2021* and considering the said prayer, this Court disposed of the **Application U/s 482 Cr.P.C.**

No.5705 of 2022 with liberty to the applicants to surrender before the trial Court within a period of 15 days and apply for regular bail.

6. After the aforesaid, the applicants did not appear before the Court concerned seeking benefit of the judgment of Hon'ble Apex Court passed in the case of *Satendra Kumar Antil (supra)* in terms of the order of this Court dated 26.08.2022 passed in the **Application U/s 482 Cr.P.C. No.5705 of 2022** and challenged the summoning order dated 03.02.2022, which was in issue in **Application U/s 482 Cr.P.C. No. 5705 of 2022**, before the Sessions Judge, Ayodhya (in short Revisional Court) by preferring the Criminal Revision No.101 of 2024 (*Ravendra Shukla Vs. State and Another*).

7. The Revisional Court upon due consideration of the facts of the case rejected the Revision vide order dated 15.05.2024, the relevant portion of which is extracted herein under:-

".....5. मैंने उभयपक्ष के विद्वान अधिवक्तागण की बहस को विस्तारपूर्वक सुना तथा विद्वान अवर न्यायालय द्वारा पारित आलोच्य आदेश का परिशीलन किया।

6. धारा 397 दं०प्र०सं० के अन्तर्गत पुनरीक्षण के स्तर पर पुनरीक्षण न्यायालय को केवल प्रश्नगत आदेश की शुद्धता, वैधता व औचित्यता देखना होता है और पुनरीक्षण न्यायालय का क्षेत्राधिकार बहुत सीमित होता है और नियमित रूप से प्रयोग नहीं किया जा सकता है।

7. प्रस्तुत मामले में विद्वान अवर न्यायालय द्वारा मुकदमा अपराध संख्या 37/2021, अन्तर्गत धारा 419, 420, 504, 506 भा०दं०सं०, थाना कैण्ट, जनपद फैजाबाद/अयोध्या के प्रकरण में धारा 173 दं०प्र०सं० के अन्तर्गत अभियुक्तगण के विरुद्ध आरोपपत्र प्राप्त होने पर आलोच्य आदेश दिनांकित 03.02.2022 के द्वारा अपराध का प्रसंज्ञान लिया गया।

8. दण्ड प्रक्रिया संहिता की धारा 190 में मजिस्ट्रेटों द्वारा अपराध का संज्ञान लिया जाना प्राविधानित है, जो निम्नवत् है-

190. मजिस्ट्रेटों द्वारा अपराधों का संज्ञान- (1) इस अध्याय के उपबन्धों के अधीन रहते हुये, कोई प्रथम वर्ग मजिस्ट्रेट और उपधारा (2) के अधीन विशेषतया सशक्त किया गया कोई द्वितीय वर्ग मजिस्ट्रेट, किसी भी अपराध का संज्ञान निम्नलिखित दशाओं में कर सकता है-

(क) उन तथ्यों का, जिनसे ऐसा अपराध बनता है, परिवाद प्राप्त होने पर,

(ख) ऐसे तथ्यों के बारे में पुलिस रिपोर्ट पर,

(ग) पुलिस अधिकारी से भिन्न किसी व्यक्ति से प्राप्त इस इत्तिला पर या स्वयं अपनी इस जानकारी पर कि ऐसा अपराध किया गया है।

(2) मुख्य न्यायिक मजिस्ट्रेट किसी द्वितीय वर्ग मजिस्ट्रेट को ऐसे अपराधों का, जिनकी जांच या विचारण करना उसकी क्षमता के अन्दर है, उपधारा (1) के अधीन संज्ञान करने के लिये सशक्त कर सकता है।

9. प्रस्तुत मामले में विद्वान अवर न्यायालय द्वारा उपरोक्त विकल्प (ख) के आधार पर प्रेषित पुलिस रिपोर्ट पर अपराध का प्रसंज्ञान लिया गया है। प्रथम सूचना रिपोर्ट में यह तथ्य उल्लिखित है कि अभियुक्तगण नमिता शर्मा, ममता एवं रविन्द्र शुक्ला ने संयुक्त रूप से आपराधिक षड्यन्त्र करते हुये धोखाधड़ी कर पट्टा अनुबन्ध विलेख दिनांक 09.12.2020 तैयार कर अनुचित लाभ प्राप्त करने के उद्देश्य से वादी की कथित भूमि पर अवैध कब्जा करने का प्रयास किया गया एवं वादी को गालियां व जानमाल की धमकी दी गयी। अभियुक्ता नमिता शर्मा द्वारा अपने पक्ष में कथित पंजीकृत पट्टा विलेख तहरीर कराने एवं सह अभियुक्तगण ममता एवं रविन्द्र शुक्ला को हाँसिया गवाह होना उल्लिखित किया गया है। विवेचक द्वारा दौरान विवेचना साक्षीगण / अभियुक्तगण का बयान अंकित किया गया एवं सम्बन्धित अभिलेखों को प्राप्त कर केस डायरी के साथ संलग्न किया गया। विवेचक द्वारा विवेचना सम्बन्धी औपचारिकताओं को पूर्ण करने के पश्चात् संकलित साक्ष्य के आधार पर विवेचनोपरान्त अभियुक्तगण के विरुद्ध आरोपपत्र न्यायालय प्रेषित किया गया। तत्पश्चात् विद्वान अवर न्यायालय द्वारा न्यायिक मस्तिष्क का प्रयोग करते हुये प्रसंज्ञान लिये जाने का पर्याप्त आधार पाते हुये अपराध का प्रसंज्ञान लिया गया। विधि निर्णय **"Sunil Bharti Mittal Vs. Central Bureau of Investigation, AIR 2015 SC 923, Supreme Court"**, के मामले में माननीय उच्चतम न्यायालय ने यह सिद्धान्त प्रतिपादित किया है कि-

"47. However, the words "sufficient grounds for proceeding" appearing in the Section are of immense importance. It is these words which amply suggest that an opinion is to be formed only after due application of mind that there is sufficient basis for proceeding against the said accused and formation of such an opinion is to be stated in the order itself.."

10. विधि निर्णय **"U.P. Pollution Control Board Vs. Dr. Bhupendra Kumar Modi and others, 2009 (1) Crimes 216"** के मामले में माननीय उच्चतम न्यायालय ने यह सिद्धान्त प्रतिपादित किया है कि-

"It is settled legal position that at the stage of issuing process, the Magistrate is mainly concerned with the allegations made in the complaint or the evidence led in support of the same and he is only to be prima facie satisfied whether there are sufficient grounds for proceedings against the accused."

11. विधि निर्णय **"Sonu Gupta Vs. Deepak Gupta, (2015) 3 SCC 424,"** के मामले में माननीय उच्चतम न्यायालय ने यह सिद्धान्त प्रतिपादित किया है कि-

"At the stage of cognizance and summoning the Magistrate is required to apply his judicial mind only with a view to take cognizance of the offence, or, in other words, to find out whether prima facie case has been made out for summoning the accused persons. At this stage, the learned Magistrate is not required to consider the defence version or materials or arguments nor he is required to evaluate the merits of the materials or evidence of the complainant, because the Magistrate must not undertake the exercise to find out at this stage whether the materials will lead to conviction or not."

12. विपक्षीगण की तरफ से प्रस्तुत विधि निर्णय "**Prabhakar Panday Vs. State of U.P. and others, Criminal Revision. No 2341 of 2001, Allahabad High,**" के मामले में माननीय उच्च न्यायालय ने यह सिद्धान्त प्रतिपादित किया है कि-

"On exercising the revisional power, learned Sessions Court cannot quash the cognizance and summoning order passed by the Magistrate, in exercising its revisional power, jurisdiction of Sessions Court is very limited and the Sessions Court can only examine the illegality, irregularity and impropriety of the order passed by the Magistrate."

13. पुनरीक्षणकर्ता की तरफ से प्रस्तुत विधि निर्णय सत्यपाल बनाम स्टेट ऑफ यू०पी० एवं अन्य उपरोक्त में मामले में उल्लिखित तथ्य प्रस्तुत मामले के तथ्य से भिन्न होने के कारण उसका कोई लाभ उन्हें प्राप्त नहीं हो सकता। उक्त मामले में प्रिन्टेड प्रोफार्मा पर प्रसंज्ञान आदेश पारित किया गया था, जबकि प्रस्तुत मामले में प्रिन्टेड प्रोफार्मा पर प्रसंज्ञान आदेश पारित नहीं है। इसी प्रकार पुनरीक्षणकर्ता विधि निर्णय मोहम्मद इब्राहिम एवं अन्य बनाम स्टेट ऑफ बिहार एवं अन्य उपरोक्त का भी कोई लाभ पुनरीक्षणकर्ता प्राप्त करने का अधिकारी नहीं है। उक्त मामले में उन्मोचन प्रार्थनापत्र के सम्बन्ध में आदेश पारित है, जबकि प्रस्तुत मामला विद्वान अवर न्यायालय द्वारा अपराध का प्रसंज्ञान लिये जाने से सम्बन्धित है।

14. इस प्रकार माननीय न्यायालयों द्वारा उपरोक्त विधि व्यवस्थाओं में प्रतिपादित सिद्धान्त के आलोक में प्रस्तुत मामले के तथ्यों एवं परिस्थितियों के सन्दर्भ में विद्वान अवर न्यायालय द्वारा पारित आलोच्य आदेश में की गयी अवधारणा विधि सम्मत प्रतीत होती है। आलोच्य आदेश के परिशीलन से स्पष्ट है कि विद्वान अवर न्यायालय ने पत्रावली पर उपलब्ध साक्ष्य का न्यायोचित विश्लेषण कर आलोच्य आदेश पारित किया है। आलोच्य आदेश में न तो कोई अशुद्धता है, न कोई अनियमितता है और न ही कोई अवैधानिकता है। विद्वान अवर न्यायालय ने अपने निहित क्षेत्राधिकार का समुचित प्रयोग करते हुये आलोच्य आदेश पारित किया है, जिसमें हस्तक्षेप का कोई औचित्य नहीं है। पुनरीक्षण आधारहीन है, जो निरस्त किये जाने योग्य है।

आदेश

दाण्डिक पुनरीक्षण निरस्त किया जाता है।

विद्वान अवर न्यायालय द्वारा पारित आलोच्य आदेश दिनांकित 03.02.2022 की पुष्टि की जाती है।

अवर न्यायालय का अभिलेख इस निर्णय की एक प्रति के साथ अविलम्ब
अवर न्यायालय को वापस प्रेषित किया जाये।”

8. It is apt to indicate that Memo of Revision has not been placed on record, though the same, to the view of this Court, is relevant to ascertain some facts including that as to whether therein the facts related to filing of earlier **Application U/s 482 Cr.P.C. No.5705 of 2022** were disclosed.

9. The order passed by the Revisional Court dated 15.05.2024, relevant portion of which is extracted herein-above, indicates that applicants before the Revisional Court concealed the materiel facts related to order dated 26.08.2022 passed in **Application U/s 482 Cr.P.C. No.5705 of 2022**, wherein the summoning order dated 03.02.2022, which was assailed before the Revisional Court, was assailed, but the same was not pressed.

10. In regard to the concealment of facts, the view of the Hon'ble Apex Court can be deduced from various pronouncements.

11. In *Oswal Fats & Oils Ltd. Vs. Additional Commissioner (Administration), Bareilly Division, Bareilly and others*, (2010) 4 SCC 728 the Hon'ble Apex Court held that a person who approaches the Court for grant of relief, equitable or otherwise, is under a solemn obligation to candidly disclose all the material/important facts which have bearing on the adjudication of the issues raised in the case. In other words, he owes a duty to the Court to bring out all the facts and refrain from concealing/suppressing any material fact within his knowledge or which he could have known by exercising diligence expected of a person of ordinary prudence. If he is found guilty of concealment of material facts or making an attempt to pollute the pure stream of justice, the Court not only has the right but a duty to deny relief to such person.

12. In *Kishore Samrite vs. State of Uttar Pradesh and others*, (2013) 2 SCC 398 the Hon'ble Apex Court observed and held as under in Paras 34 to 39:-

"34. It has been consistently stated by this Court that the entire journey of a Judge is to discern the truth from the pleadings, documents and arguments of the parties, as truth is the basis of the Justice-delivery System.

35. With the passage of time, it has been realised that people used to feel proud to tell the truth in the Courts, irrespective of the consequences but that practice no longer proves true, in all cases. The Court does not sit simply as an umpire in a contest between two parties and declare at the end of the combat as to who has won and who has lost but it has a legal duty of its own, independent of parties, to take active role in the proceedings and reach at the truth, which is the foundation of administration of justice. Therefore, the truth should become the ideal to inspire the courts to pursue. This can be achieved by statutorily mandating the Courts to become active seekers of truth. **To enable the courts to ward off unjustified interference in their working, those who indulge in immoral acts like perjury, prevarication and motivated falsehood, must be appropriately dealt with. The parties must state forthwith sufficient factual details to the extent that it reduces the ability to put forward false and exaggerated claims and a litigant must approach the Court with clean hands. It is the bounden duty of the Court to ensure that dishonesty and any attempt to surpass the legal process must be effectively curbed and the Court must ensure that there is no wrongful, unauthorised or unjust gain to anyone as a result of abuse of the process of the Court. One way to curb this tendency is to impose realistic or punitive costs.**

36. The party not approaching the Court with clean hands would be liable to be non-suited and such party, who has also succeeded in polluting the stream of justice by making patently false statements, cannot claim relief, especially under Article 136 of the Constitution. While approaching the court, a litigant must state correct facts and come with clean hands. Where such statement of facts is based on some information, the source of such information must also be disclosed. Totally misconceived petition amounts to abuse of the process of the court and such a litigant is not required to be dealt with lightly, as a petition containing misleading and inaccurate statement, if filed, to achieve an ulterior purpose amounts to abuse of the process of the court. A litigant is bound to make "full and true disclosure of facts". (Refer : Tilokchand H.B. Motichand & Ors. v. Munshi & Anr. [1969 (1) SCC 110]; A. Shanmugam v. Ariya Kshatriya Rajakula Vamsathu Madalaya Nandhavana Paripalanai Sangam & Anr. [(2012) 6 SCC 430]; Chandra Shashi v. Anil Kumar Verma [(1995) SCC 1 421]; Abhyudya Sanstha v. Union of India & Ors. [(2011) 6 SCC 145]; State of Madhya Pradesh v. Narmada Bachao Andolan & Anr. [(2011) 7 SCC 639]; Kalyaneshwari v. Union of India & Anr. [(2011) 3 SCC 287]).

37. The person seeking equity must do equity. It is not just the clean hands, but also clean mind, clean heart and clean objective that are the equi-fundamentals of judicious litigation. The legal maxim *jure naturae aequum*

est neminem cum alterius detrimento et injuria fieri locupletiore, which means that it is a law of nature that one should not be enriched by the loss or injury to another, is the percept for Courts. Wide jurisdiction of the court should not become a source of abuse of the process of law by the disgruntled litigant. Careful exercise is also necessary to ensure that the litigation is genuine, not motivated by extraneous considerations and imposes an obligation upon the litigant to disclose the true facts and approach the court with clean hands.

38. No litigant can play "hide and seek" with the courts or adopt "pick and choose". True facts ought to be disclosed as the Court knows law, but not facts. One, who does not come with candid facts and clean breast cannot hold a writ of the court with soiled hands. Suppression or concealment of material facts is impermissible 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.** {K.D. Sharma v. Steel Authority of India Ltd. & Ors. [(2008) 12 SCC 481]}.

39. Another settled canon of administration of justice is that no litigant should be permitted to misuse the judicial process by filing frivolous petitions. No litigant has a right to unlimited drought upon the court time and public money in order to get his affairs settled in the manner as he wishes. Easy access to justice should not be used as a licence to file misconceived and frivolous petitions. *Buddhi Kota Subbarao (Dr.) v. K. Parasaran*, (1996) 5 SCC 530."

13. In ***Kishore Samrite (supra)***, the Hon'ble Apex Court has clearly held that it is the bounden duty of the Court to ensure that dishonesty and any attempt to surpass the legal process must be effectively curved and the Court must ensure that there is no wrongful unauthorized or unjust gain to any one as a result of abuse of the process of the Court and one way to curve this tendency is to impose realistic or punitive costs.

14. In ***Kishore Samrite (supra)***, the Hon'ble Supreme Court held that no litigant can play "hide and seek" with the courts or adopt "pick and choose". True facts ought to be disclosed as the court knows law, but not facts. One, who does not come with candid facts and clean breast cannot hold a writ of the court with soiled hands. Suppression or concealment of material facts is impermissible 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 court.

15. The present one is the second Application U/s 482 Cr.P.C. on the same facts and for the same reliefs except with regard to the challenge made to the order dated 15.05.2024 passed by the revisional Court in the revision filed by the applicants challenging the summoning order dated 03.02.2022, which was challenged earlier in **Application U/s 482 Cr.P.C. No.5705 of 2022** and this Court did not cause interference in the same, and as such this Court finds it appropriate to take note of the observations made by the Hon'ble Apex Court passed in the case of ***Bhisham Lal Verma Vs. State of Uttar Pradesh and another (2023) SCC OnLine SC 1399*** . The relevant para are extracted herein-under:-

"6. Long thereafter, the petitioner filed his first petition under Section 482 Cr.P.C., viz., Criminal Misc. Application No. 8465 of 2018, before the Allahabad High Court. Therein, he chose to challenge only the Government's sanction order dated 03.12.2013. The State opposed the application, pointing out that a challenge to the sanction could be made before the Trial Court. Thereupon, the petitioner's counsel sought liberty to approach the Trial Court by way of an appropriate application challenging the sanction. Accepting that plea, the High Court disposed of the application, vide order dated 15.12.2020, granting liberty to the petitioner to approach the Trial Court and challenge the sanction order. Significantly, at the time of filing of this first petition under Section 482 Cr.P.C., the charge sheet was very much on record and the learned Sessions Judge, Rampur, had already taken cognizance.

7. However, it was only in the year 2022 that the petitioner felt inspired to file a second petition under Section 482 Cr.P.C., viz., Criminal Misc. Application No. 2014 of 2022. His prayers therein were to quash the charge sheet dated 30.04.2015; the cognizance order dated 12.06.2015; and the proceedings in Special Case No. 19 of 2016, insofar as he was concerned. This application was dismissed by the Allahabad High Court, vide order dated 20.02.2023. Therein, the High Court noted that the petitioner had earlier filed Criminal Misc. Application No. 8465 of 2018 under Section 482 Cr.P.C. with a limited prayer - to quash the sanction order dated 30.12.2013. Holding that it was not open to the petitioner to go on challenging the proceedings one by one and as he had not felt aggrieved by the charge sheet or the order of cognizance when he had filed the first petition under Section 482 Cr.P.C., the High Court concluded that the subsequent petition challenging the same would not be maintainable and dismissed the application. It is against this order that the petitioner approached this Court by way of the present case.

8. On behalf of the petitioner, Mr. Pradeep Kumar Singh Baghel, learned senior counsel, would argue that a second petition is maintainable under Section 482

Cr.P.C.. He relied on the judgment of this Court in Superintendent and Remembrancer of Legal Affairs, West Bengal vs. Mohan Singh and others¹. Therein, it was held that a subsequent application under Section 561-A of the Code of Criminal Procedure, 1898, presently Section 482 Cr.P.C, would be maintainable in changed circumstances. It was affirmed that a subsequent application, which is not a (1975) 3 SCC 706 repeat application squarely on the same facts and circumstances, would be maintainable. To the same effect was the more recent decision of this Court in Anil Khadkiwala vs. State (Government of NCT of Delhi) and another². Earlier, in S.M.S. Pharmaceuticals Ltd. vs. Neeta Bhalla and another³, this Court held that when the first petition under Section 482 Cr.P.C was withdrawn with liberty to avail remedies, if any, available in law, the High Court would not be denuded of its inherent jurisdiction under Section 482 Cr.P.C. on being petitioned again and the principle of res judicata would not stand attracted. Again, in Vinod Kumar, IAS. vs. Union of India and others⁴, a 3-Judge Bench of this Court observed that dismissal of an earlier petition under Section 482 Cr.P.C would not bar filing of a subsequent petition thereunder in case the facts so justify.

9. Mr. S. Nagamuthu, learned amicus curiae, would however point out that entertainment of the second petition in Mohan Singh (supra) was held permissible as the circumstances obtaining at the time of the subsequent petition were clearly different from what they were at the time of the earlier one and that was the distinguishing factor which saved the second petition. He would further point out that, in Simrikhia vs. Dolley (2019) 17 SCC 294 (2007) 4 SCC 70 Writ Petition No. 255 of 2021, decided on 29.06.2021 = 2021 SCC OnLine SC 559 Mukherjee and Chhabi Mukherjee and another⁵, this Court cautioned that the inherent jurisdiction under Section 482 Cr.P.C cannot be invoked to override the bar of review under Section 362 Cr.P.C. Reference was made to Sooraj Devi vs. Pyare Lal and another⁶ which held that the inherent power of the Court could not be exercised for doing that which is specifically prohibited by the Code of Criminal Procedure, 1973. He also drew our attention to R. Annapurna vs. Ramadugu Anantha Krishna Sastry and others⁷, wherein a quash petition under Section 482 Cr.P.C. was dismissed on 28.01.1995 and without mentioning the same, another petition was filed under Section 482 Cr.P.C. with a similar prayer. Noting that the second petition was not made on the strength of anything which had developed after 28.01.1995 but only on the facts which subsisted prior to that date, this Court held that the second petition was not maintainable, as the High Court did not have the power to upset the order dated 28.01.1995 which had attained finality.

10. In S. Madan Kumar vs. K. Arjunan⁸, the Madras High Court observed that a person who invokes Section 482 Cr.P.C. should honestly come before the Court raising all the pleas available to him at that point of (1990) 2 SCC 437 (1981) 1 SCC 500 (2002) 10 SCC 401 (2006) 1 MWN (Cri) DCC 1 = 2006 SCC Online Mad 94 time and he is not supposed to approach the Court with instalment pleas. It was further observed that there may be a change of circumstances during the course of criminal proceedings which would give scope for the person aggrieved to invoke the inherent jurisdiction of the Court, but when he is posted with all the facts and circumstances of a case, he cannot withhold part of it for the purpose of filing yet another petition seeking the same relief.

11. We are in complete agreement with these observations of the Madras High Court. Though it is clear that there can be no blanket rule that a second petition under Section 482 Cr.P.C. would not lie in any situation and it would depend upon the facts and circumstances of the individual case, it is not open to a person aggrieved to raise one plea after the other, by invoking the jurisdiction of the High Court under Section 482 Cr.P.C., though all such pleas were very much available even at the first instance. Permitting the filing of successive petitions under Section 482 Cr.P.C. ignoring this principle would enable an ingenious accused to effectively stall the proceedings against him to suit his own interest and convenience, by filing one petition after another under Section 482 Cr.P.C., irrespective of when the cause therefor arose. Such abuse of process cannot be permitted."

16. In view of above, this second application on the same grounds is not maintainable.

17. Having considered the aforesaid facts of the case, as also taking note of the observations of the Hon'ble Apex Court in the judgments referred above, this Court is of the view that no indulgence in the matter is required. Accordingly, the present application is **rejected**. No order as to costs.

Order Date :- 29.7.2024
Gurpreet Singh