

**Court No. - 16**

**Case :-** MATTERS UNDER ARTICLE 227 No. - 8347 of 2019

**Petitioner :-** Saheb Lal

**Respondent :-** State Of U.P. And Anr.

**Counsel for Petitioner :-** Santosh Kumar Dwivedi, Amar Nath Dubey, Anil Kumar Yadav

**Counsel for Respondent :-** G.A., Karunakar Srivastava

**Hon'ble Shamim Ahmed, J.**

Heard Sri Devesh Singh, holding brief of Sri Amar Nath Dubey, learned counsel for the petitioner, Sri Lalit Kumar Singh, holding brief of Sri Karunakar Srivastava, learned counsel for the opposite party no.2 and Sri Rajesh Kumar Pathak, learned A.G.A. for the State.

The instant writ petition has been filed seeking prayer to quash the order dated 07.11.2012 passed by learned Chief Judicial Magistrate, Bahraich in Case No.2790/12/2011 (Saheb Lal Vs. Kunwar Bahadur), under Sections 420, 506 I.P.C., Police Station Jarwal Road, District Bahraich as well as judgment and order dated 29.11.2018 passed by learned 4th Additional District & Sessions Judge, Bahraich in Criminal Revision No.40/2018 (Saheb Lal Vs. State of U.P. & Another).

Learned counsel for the petitioner submits that on 12.08.2009, the petitioner had filed an application under Section 156(3) Cr.P.C. against the opposite party no.2 for registration of the F.I.R., wherein under the orders of learned Magistrate, the first information report was lodged on 28.11.2010 bearing Case Crime No.1461/2010, under Sections 420, 506 I.P.C., Police Station Jarwal Road, District Bahraich. Thereafter the matter was investigated and the Investigating Officer did not find any material against the opposite party no.2, as such, on 04.12.2010, Final Report bearing No.18/2010 was submitted before the learned Magistrate.

He further submits that being aggrieved by the Final Report dated 04.12.2010, the petitioner filed a protest petition on 07.10.2011, wherein the learned Chief Judicial Magistrate, Bahraich vide order dated 21.11.2011 had rejected the Final Report and treated the protest petition as complaint case and the date was fixed for recording the statement of petitioner under Section 200 Cr.P.C.

He further submits that on 07.11.2012, the above said complaint case was dismissed for want of prosecution and aggrieved by the order dated 07.11.2012, the petitioner on 20.12.2012 had filed a recall application for recall of the order dated 07.11.2012, however, the same was rejected on 11.04.2014.

He further submits that aggrieved with the order dated 07.11.2012, the petitioner preferred a Criminal Revision in the court of learned Sessions Judge, Bahraich bearing Criminal Revision No.40/2018 (Saheb Lal Vs. State of U.P. & Another).

He further submits that the learned Revisional Court vide order dated 29.11.2018 had rejected the aforesaid Criminal Revision of the petitioner without considering the evidence on record. He further submits that both the orders i.e. order dated 07.11.2012 and 29.11.2018 were passed by the learned trial court without considering the evidence on record, thus, both the orders may be quashed and the instant petition may be allowed.

On the other hand, learned counsel for the opposite party no.2 as well as learned A.G.A. for the State opposed the prayer of the learned counsel for the petitioner and submit that there is no illegality or infirmity in both the impugned orders i.e. order dated 07.11.2012 and 29.11.2018. They have been passed after considering the entire evidence on record.

They further submits that the petitioner since 30.01.2012 till 07.11.2012 did not appear before the learned trial court to press the complaint as well as for recording his statement under Section 200 Cr.P.C., thus, the learned Magistrate had no option but to dismiss the same for want of prosecution. They further submit that a casual approach was adopted on behalf of the petitioner, thus, the learned Magistrate had rightly dismissed the complaint of the petitioner for want of prosecution and even the learned Revisional Court in its order dated 29.11.2018 had considered the entire grounds taken by the revisionist and did not find any justification of considering allegation of taking Rs.1,00,000/- for affording the job in the Institution for Class-IV post.

They further submit that the petitioner only with intention to defame the image of the opposite party no.2 i.e. the Principal of the Institution had initiated the instant proceedings. As per the averments made in the complaint, the manager was also involved in the present case, however, the manager had not been made party in this case, thus, it is clear that the petitioner wants to take benefit of his caste by falsely implicating the opposite party no.2 in the present case. They further submit that whatever the appointment has been made, that was made on the

basis of merit of candidates and the petitioner did not fulfill the requisite qualification, thus, being aggrieved with this, the petitioner had falsely implicated the Principal with intention to blackmail him. They further submit the instant writ petition does not require any interference by this Court, thus, the same is liable to be rejected.

After considering the entire arguments as advanced by learned counsel for the respective parties as well as after perusing the material available on record, this Court is of the view that the learned trial court had passed the impugned orders after considering the material on record in just and proper way. The petitioner himself avoided to appear in this case from 30.01.2012 till 07.11.2012, thus, the learned trial court had rightly rejected the complaint of the petitioner for want of prosecution and even the learned Revisional Court had also dismissed the Criminal Revision of the petitioner after considering the case on merit. Further, this writ petition is of the year 2019, thus, no interference is required by this Court.

With the aforesaid observations, the instant writ petition lacks merit, which is accordingly **dismissed**.

**Order Date :- 17.9.2024**

Saurabh