IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23521 of 2024
In
CRIMINAL MISCELLANEOUS No.6698 of 2024

Arising Out of PS. Case No.-209 Year-2023 Thana- MANIYARI District- Muzaffarpur

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Md. Sarfe Alam, son of Md. Faiyaz, resident of village- Chapki, PS-Maniyari District-Muzaffarpur

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Md. Shamimul Hoda, Advocate
For the Opposite Party/s : Mr.Shailendra Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL ORDER

2 20-03-2024 Heard learned counsel for the petitioner and learned APP for the State.

2. This application has been filed for modification of the order dated 22.02.2024 passed in Cr. Misc. No.6698 of 2024 by this Court by which the petitioner has been granted anticipatory bail with certain conditions.

3. The learned counsel for the petitioner submits that prayer of the petitioner for grant of anticipatory bail was allowed vide order dated 22.02.2024, but at that time, though three criminal antecedents of the petitioner were brought to the notice of this Court, four criminal antecedents was not made known to the Court and this was a mistake and due to inadvertence Maniyari P.S. Case No. 72 of 2023 registered for

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the offence under Sections 341, 323, 379, 504, 506/34 IPC could not be brought to the notice of this Court for which the petitioner tenders unconditional apology. The learned counsel further submits that while passing the order, this Court put a condition that before accepting the bail bonds of the petitioner, the learned court below would verify the fact that the petitioner was accused in Maniyari P.S. Case No.72 of 2023 or not and if it was found that the petitioner was accused in the said case, then his bail bonds would not be accepted. The learned counsel prays for modification of the order dated 22.02.2024 by deleting this condition.

4. Perused the record.

5. From perusal of record, I do not find that it was inadvertence which resulted in suppression of the criminal antecedent of the petitioner when it has been specifically brought to the notice of the learned counsel for the petitioner that Maniyari P.S. Case No.72 of 2023 might also be pending, but no immediate steps were taken. On the conduct of the seekers of justice committing fraud on the Court, this Court would like to discuss some of the judgments of the Hon'ble Apex Court.

6. The Hon'ble Apex Court in the case of ***Kishore***

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Samrite v. State of U.P. & Ors. reported in **(2013) 2 SCC 398** held in paragraph 32 with regard to practice and procedure, abuse of process of court/law/fraud on the Court. It will be apposite to reproduce the principles governing the obligations of a litigant while approaching the Court and the consequences of abuse of process enumerated in this judgment.

> ***"32.*** *The cases of abuse of process of court and such allied matters have been arising before the courts consistently. This Court has had many occasions where it dealt with the cases of this kind and it has clearly stated the principles that would govern the obligations of a litigant while approaching the court for redressal of any grievance and the consequences of abuse of process of court. We may recapitulate and state some of the principles. It is difficult to state such principles exhaustively and with such accuracy that would uniformly apply to a variety of cases. These are:*
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> ***32.1.*** *Courts have, over the centuries, frowned upon litigants who, with intent to deceive and mislead the courts, initiated proceedings without full disclosure of facts and came to the courts with "unclean hands". Courts have held that such litigants are neither entitled to be heard on the merits of the case nor are entitled to any relief.*
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> ***32.2.*** *The people, who approach the court for relief on an ex parte statement, are under a contract with the court that they would state the whole case fully and fairly to the court and where*

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the litigant has broken such faith, the discretion of the court cannot be exercised in favour of such a litigant.

32.3. *The obligation to approach the court with clean hands is an absolute obligation and has repeatedly been reiterated by this Court.*

32.4. *Quests for personal gains have become so intense that those involved in litigation do not hesitate to take shelter of falsehood and misrepresent and suppress facts in the court proceedings. Materialism, opportunism and malicious intent have overshadowed the old ethos of litigative values for small gains.*

32.5. *A litigant who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands is not entitled to any relief, interim or final.*

32.6. *The court must ensure that its process is not abused and in order to prevent abuse of process of court, it would be justified even in insisting on furnishing of security and in cases of serious abuse, the court would be duty-bound to impose heavy costs.*

32.7. *Wherever a public interest is invoked, the court must examine the petition carefully to ensure that there is genuine public interest involved. The stream of justice should not be allowed to be polluted by unscrupulous litigants.*

32.8. *The court, especially the Supreme Court, has to maintain the strictest vigilance over*

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the abuse of process of court and ordinarily meddlesome bystanders should not be granted "visa". Many societal pollutants create new problems of unredressed grievances and the court should endure to take cases where the justice of the lis well justifies it".

7. Further, the Hon'ble Apex Court in the case of ***Dalip Singh Vs. State of Uttar Pradesh and Ors.*** reported in ***(2010) 2 SCC 114*** taking note of abuse of process regarding new creed of dishonest litigants, noticed and strongly deprecated the tendency and held in paragraph 1 and 2 as under :

"1. *For many centuries Indian society cherished two basic values of life i.e. "satya" (truth) and "ahimsa" (non-violence). Mahavir, Gautam Buddha and Mahatma Gandhi guided the people to ingrain these values in their daily life. Truth constituted an integral part of the justice-delivery system which was in vogue in the pre-Independence era and the people used to feel proud to tell truth in the courts irrespective of the consequences. However, post-Independence period has seen drastic changes in our value system. The materialism has overshadowed the old ethos and the quest for personal gain has become so intense that those involved in litigation do not hesitate to take shelter of falsehood, misrepresentation and suppression of facts in the court proceedings.*

2. *In the last 40 years, a new creed of*

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litigants has cropped up. Those who belong to this creed do not have any respect for truth. They shamelessly resort to falsehood and unethical means for achieving their goals. In order to meet the challenge posed by this new creed of litigants, the courts have, from time to time, evolved new rules and it is now well established that a litigant, who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final".

8. In another case, i.e., ***Sciemed Overseas Inc Vs. BOC India Limited and Ors***. reported in ***(2016) 3 SCC 70,*** the Hon'ble Apex Court made observation with regard to imposition of exemplary costs for filing of false or misleading affidavit, imposition of cost fully justified of Rs.10 lacs on the petitioner for filing a false or misleading affidavit in court. It is relevant to quote paragraphs 2, 3, 28 & 29 from the said judgment :

"2. *A global search of cases pertaining to the filing of a false affidavit indicates that the number of such cases that are reported has shown an alarming increase in the last fifteen years as compared to the number of such cases prior to that. This is illustrative of the malaise that is slowly but surely creeping in. This "trend" is certainly an unhealthy one that should be strongly discouraged, well before the filing of false affidavits gets to be treated as a routine and normal affair.*

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3. *The petitioner is aggrieved by the judgment and order dated 22-9-2008 passed by the Division Bench of the High Court of Jharkhand in BOC India Ltd. v. State of Jharkhand [BOC India Ltd. v. State of Jharkhand, 2008 SCC OnLine Jhar 279 : (2009) 1 AIR Jhar R 26] only to the extent of imposition of costs. In our opinion, there is no merit in this petition and it deserves to be dismissed.*

28. *In Suo Motu Proceedings against R. Karuppan, Advocate, In re [Suo Motu Proceedings against R. Karuppan, Advocate, In re, (2001) 5 SCC 289 : 2001 SCC (Cri) 876] this Court had observed that the sanctity of affidavits filed by parties has to be preserved and protected and at the same time the filing of irresponsible statements without any regard to accuracy has to be discouraged. It was observed by this Court as follows: (SCC p. 293, para 13)*

"13. Courts are entrusted with the powers of dispensation and adjudication of justice of the rival claims of the parties besides determining the criminal liability of the offenders for offences committed against the society. The courts are further expected to do justice quickly and impartially not being biased by any extraneous considerations. Justice dispensation system would be wrecked if statutory restrictions are not imposed upon the litigants, who attempt to mislead the court by filing and relying upon false evidence particularly in cases, the adjudication of which is dependent upon the statement of facts. If the result of the proceedings are to be respected, these issues

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before the courts must be resolved to the extent possible in accordance with the truth. The purity of proceedings of the court cannot be permitted to be sullied by a party on frivolous, vexatious or insufficient grounds or relying upon false evidence inspired by extraneous considerations or revengeful desire to harass or spite his opponent. Sanctity of the affidavits has to be preserved and protected discouraging the filing of irresponsible statements, without any regard to accuracy."

29. *Similarly, in Muthu Karuppan v. Parithi Ilamvazhuthi [Muthu Karuppan v. Parithi Ilamvazhuthi, (2011) 5 SCC 496 : (2011) 2 SCC (Cri) 709] this Court expressed the view that the filing of a false affidavit should be effectively curbed with a strong hand. It is true that the observation was made in the context of contempt of court proceedings, but the view expressed must be generally endorsed to preserve the purity of judicial proceedings. This is what was said: (SCC p. 501, para 15)*

"15. Giving false evidence by filing false affidavit is an evil which must be effectively curbed with a strong hand. Prosecution should be ordered when it is considered expedient in the interest of justice to punish the delinquent, but there must be a prima facie case of 'deliberate falsehood' on a matter of substance and the court should be satisfied that there is a reasonable foundation for the charge."

9. Having considered the principles laid down in the judgment referred supra as well as facts and circumstances of

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the case, it appears that the deponent Reyaz Ahmad in Cr. Misc. No. 6698/2024, did not bring all criminal antecedents of the petitioner deliberately to the knowledge of this Court which appears to be a case of suppression of fact by the deponent in order to get bail for his cousin anyhow from this Court which is nothing but fraud upon the Court.

10. Further, it appears that since everything was being done for the benefit of the petitioner, so the petitioner cannot escape from the liability of the concealment of his criminal antecedent from this Court, which is also nothing but fraud on the Court.

11. From the aforesaid discussions, I am of the considered view that these are the matters which are to be taken seriously otherwise anybody may endeavour to play a fraud upon Court by concealment of material facts, such as, criminal antecedents of an accused and this Court finds that these attempts are being made now regularly and the Court has come across several circumstances in which concealment of criminal antecedents have been noticed.

12. Since this Court has found a clear case of concealment of criminal antecedents of the petitioner by the deponent which was being done for the benefit of the petitioner,

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a cost of Rs.25,000/- (Twenty Five thousand) is imposed upon the deponent, namely, Reyaz Ahmad and the petitioner, Md. Sarfe Alam for swearing false affidavit and trying to mislead the Court by suppressing facts. The aforesaid cost shall be paid by the deponent in the coffer of Patna High Court Legal Services Committee within a period of two months from today.

13. Accordingly, the last condition of the order dated 22.02.2024, i.e., *'However, before accepting the bail bonds of the petitioner the learned court below will verify the fact that the petitioner is accused in Maniyari P.S. Case No.72 of 2023 or not and if it is found that the petitioner is accused in the said case then his bail bonds will not be accepted'* is waived and stands deleted from the conditions, if the aforesaid cost shall be paid by the deponent in the coffer of Patna High Court Legal Services Committee within the stipulated period and at the time of furnishing bail bonds, the petitioner will file a receipt thereof showing such payment.

14. Accordingly, the order dated 22.07.2024 is modified to the aforesaid extent only.

15. This application stands disposed of.

(Arun Kumar Jha, J)

V.K.Pandey/-

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