

(2006) 08 AHC CK 0017

In the Allahabad High Court

Case No : Criminal M. Application No. 1666 of 2006

Chhannu Lal Maurya and Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 28-08-2006

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 193, 406, 420

Citation : (2007) 1 ACR 459

Hon'ble Judges : Vinod Prasad, J

Bench : Single Bench

Advocate : Ram Murti Tripathi, for the Appellant; T.N. Tiwari, A.G.A., for the Respondent

Final Decision : Dismissed

Judgement

Vinod Prasad, J.—List of unlisted cases is revised.

2. Sri T. N. Tiwari, learned Counsel for the Respondent No. 2 is present and Sri R. M. Tripathi, learned Counsel for the applicant is not present.

3. Sri T. N. Tiwari has filed this recall application on the ground that on the earlier occasion the applicants filed Criminal Revision No. 544 of 2006, in this Court, which was finally decided by Hon. V. K. Chaturvedi, J., on 2.2.2006. By concealment of the said fact that an order was passed on 14.2.2006 in the aforesaid criminal revision and without disclosing the fact of the filing of the earlier revision in this Court an order has been obtained by the applicants in the aforesaid criminal misc. application u/s 482, Cr. P.C., from this Bench. alongwith this recall application the Respondent has appended the copy of the order passed by Hon''ble V. K. Chaturvedi, J., on 2.2.2006 in the aforementioned criminal revision.

4. I have perused the order dated 2.2.2006, passed by Hon''ble V. K. Chaturvedi, J. It has been observed by his Lordship that complaint discloses prima facie case

and there was no reason to quash the same. The aforesaid order was not appended alongwith the Criminal Misc. Application No. 1666/06 filed by the present applicants Chhannu Lal Maurya, Dheera Maurya, Girja Shankar Maurya and Anil Kumar Maurya (Minor). In the aforesaid criminal revision challenge was made to the summoning order of the applicants in the same Complaint Case No. 2243 of 2005 u/s 406, I.P.C. and 3/4 of D.P. Act pending before Judicial Magistrate, Varanasi which was challenged in the above Criminal Misc. Application No. 1666 of 2006. Since the order dated 14.2.2006, has been obtained from this Court by concealment of the earlier order passed by Hon''ble V. K. Chaturvedi, J., in the aforesaid revision, therefore, the applicants are guilty of prevarication with suggestio falsi and hence the stay order dated 14.2.2006, granted by this Court in Criminal Misc. Application No. 1666 of 2006, Chhannu Lal Maurya and Ors. v. State of U.P. and another Criminal Misc. Application No. 1666/06, is hereby recalled. The Criminal Misc. Application No. 1666/06, Chhannu Lal Maurya and Ors. v. State of U.P. and another, is dismissed because of suppressio vari and prevarication with imposition of cost of Rs. 20,000 on the four applicants. The amount of cost shall be realized from the aforesaid applicants Channu Lal Maurya, Dheera Maurya, Girja Shankar Maurya and Anil Kumar Maurya (Minor) within a period of one month from today by issuing a warrant of realization by C.J.M., Varanasi.

5. If the aforesaid four applicants fail to comply with this order, the Chief Judicial Magistrate, Varanasi, is directed to issue non-bailable warrant against them and send them to jail by lodging an F.I.R. against them for offences under Sections 420, 406 and 193, I.P.C. and other allied sections.

6. With the aforesaid direction the recall application is allowed and this Criminal Misc. Application No. 1666/06 u/s 482, Cr. P.C. is dismissed.

7. Copy of this order shall be sent to the C.J.M., Varanasi, within three weeks for intimation and further action. He is further directed to report compliance within two months.