
(2014) 06 AHC CK 0031
In the Allahabad High Court
Case No : Writ - C. No. 32661 of 2014

Poonam

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 18-06-2014

Acts Referred:

Citation : (2014) 3 RCR(Civil) 604 : (2014) 3 RCR(Criminal) 516

Hon'ble Judges : Sudhir Agarwal, J

Bench : Single Bench

Advocate : M.N. Shukla, Advocate for the Appellant

Final Decision : Dismissed

Judgement

Sudhir Agarwal, J.—Heard learned counsel for the petitioners and perused the record. The petitioners claim to be major, and have married with their free will. They are living together as husband and wife.

2. It is alleged that the relatives of petitioner No. 1 (wife) are interfering in their peaceful married life. However, there is no allegation in the pleadings that any FIR has been lodged by the relatives of the petitioners. The allegations of harassment in the writ petition are based merely on the apprehension.

3. Presently, the petitioners have not acquired any cause of action nor there is any such act on the part of their parents or relatives alleged by the petitioners regarding harassment, warranting interference in the writ petition. If a report is lodged with the police, it will be open to the petitioners to appear before the concerned Magistrate, to record their statements.

4. This Court has not examined the facts of the case and thus this Court direct that this order shall not be treated and construed by any authority as certificate of marriage.

5. This is apparently a frivolous petition, which is evident from self contradictory statement made in paras 9 and 10 of the writ petition, which read as under:

9. That after solemnization of marriage both the petitioners return to their respective home and tried hard to change the mind of respondent No. 6 to 9 and their other family members but all in vain.

10. That after solemnization of marriage petitioner No. 1 left her parental house and started living with her husband at her in laws house. At this point the respondent No. 6 to 9 came to know about the marriage of petitioners and they being an influential person started harassing the petitioners and also started threatening to the petitioner with the aid of local police at Muzaffar Nagar and Meerut.

6. Both the aforesaid paras have been sworn on the basis of personal knowledge and interestingly, the affidavit is sworn by both the petitioners, therefore, it is clear case where petitioners have sworn a false affidavit.

7. However, when enquired as to why this writ petition has been filed, learned counsel for the petitioners could not give any effective reply and it appears to this Court that just to get a certificate to the alleged marriage, this writ petition has been filed on the pretext as if there is an apprehension of life and liberty to the petitioners from respondents No. 6 to 9 but in respect of substantial aspect regarding apprehension of life and liberty, appropriate pleadings are almost absent, which shows that real objective is something else than what is attempted to be shown by way of arguments. I am clearly of the view that this writ petition is nothing but a totally vexatious and frivolous litigation. It is really unfortunate that such frivolous litigation is consuming a lot of time of this Court depriving other substantial matters to be conducted within reasonable time.

8. Stressing upon the ways to discourage filing of vexatious and frivolous cases against all kinds of orders or at every stage of proceedings, irrespective of the fact whether petition like the present one would be permissible in law or not, Apex Court in the context of practice of filing SLPs against all kinds of orders of High Court or other authorities, came heavily in Mathai @ Joby Vs. George and Another, and said that if all such sundry kinds of cases are allowed, the Court will soon be flooded with a huge amount of backlog and it will not be able to deal with important questions relating to the Constitution or the law or where grave injustice has been done. The Court has limited time at its disposal and the Judges are struggling with unbearable burden with zeal to dispense justice to whom it is highly needed yet being obstructed by such frivolous and vexatious matters, a trend is developing to bring all kinds of trivial and flimsy matters to Court causing wastage of not only public money, but also precious time of the Court, which can be used for other substantial matters.

9. The Apex Court in CrI. M.P. No. 25683 of 2013 in SLP (CrI.) No. 2448 of 2014 Phool Chandra and Another Vs. State of U.P., decided on 10.3.2014, observed:

...the time of the Court which is becoming acutely precious because of the piling arrears has to be wasted on hearing such matters. There is an urgent need to put a check on such frivolous litigation. Perhaps many such cases can be avoided

if learned Counsel who are officers of the court and who are expected to assist the court tender proper advice to their clients. The Bar has to realise that the great burden upon the Bench of dispensing justice imposes a simultaneous duty upon them to share this burden and it is their duty to see that the burden should not needlessly be made unbearable. The Judges of this Nation are struggling bravely against the odds to tackle the problem of dispensing quick justice. But, without the cooperation of the gentlemen of the Bar, nothing can be done.

10. The Court in Phool Chandra & Anr. (supra) referring to earlier decisions in Varinderpal Singh v. Hon''ble Justice M.R. Sharma and Ors., 1986 Supp SCC 719; Rameshwari Devi and Others Vs. Nirmala Devi and Others, and Gurgaon Gramin Bank Vs. Smt. Khazani and Another, has said:

It is high time that the Courts should come down heavily upon such frivolous litigation and unless we ensure that the wrongdoers are denied profit or undue benefit from the frivolous litigation, it would be difficult to control frivolous and uncalled for litigation. In order to curb such kind of litigation, the courts have to ensure that there is no incentive or motive which can be ensured by imposing exemplary costs upon the parties as well as on learned Counsel who act in an irresponsible manner.

11. I may also repeat here at observation made by the Court in Salem Advocate Bar Association, Tamil Nadu Vs. Union of India (UOI), stating that award of costs must be treated generally as mandatory. It is the liberal attitude of the Courts in not awarding costs which has led to frivolous points or litigation before the Courts. Costs should invariably follow the event and reasons must be assigned for not awarding costs.

12. In view of aforesaid, this petition has to be dismissed with costs. It is accordingly dismissed with costs, which I quantify to Rs. 2,500/-.