
(2015) 01 AHC CK 0163

In the Allahabad High Court

Case No : Criminal M. Application Nos. 866 and 890 of 2015

Pramod Soni and Others

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 22-01-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 323, 379, 498A, 504, 506

Citation : (2015) 2 ACR 1203 : (2015) 5 ALJ 175

Hon'ble Judges : Ramesh Sinha, J

Bench : Single Bench

Advocate : Yashpal and Rajesh Yadav, for the Appellant

Final Decision : Dismissed

Judgement

Ramesh Sinha, J—Both the above 482, Cr.P.C. applications on behalf of the applicants have come up before this Court on the same day, i.e., 21.1.2015 within a short span of time and the prayer made in the said applications are quoted here-in-below :

"CRL. MISC. APPLICATION under Section 482 No. 866 of 2015; This 482, Cr. P.C. application has been filed with a prayer to quash the proceedings in Criminal Case No. 2061 of 2013 [State v. Pramod Soni], arising out of F.I.R. at Case Crime No. 48 of 2011, under Sections 498A, 323, 504, 506, I.P.C. and 3/4 D.P. Act, P.S. Phoolpur, District Allahabad, pending before the Judicial Magistrate, Court No. 3. Allahabad.

"CRL. MISC. APPLICATION under Section 482 No. - 890 of 2015 : This 482, Cr P.C. application has been filed with a prayer to quash the impugned order dated 19.11.2014 passed by the Judicial Magistrate. IIIrd, Allahabad in Case Crime No. 48 of 2011. under Sections 498A, 323, 504, 506, 379, I.P.C. and 3/4, D.P. Act. P.S. Phoolpur, District Allahabad in Criminal Case No. 2061 of 2013 [State v. Pramod Soni)

Sri Yashpal, Sri R.S. Singh and Sri G.S. Dwivedi, learned counsel appearing on behalf of the applicants in both the applications when called upon by this Court to know as to why the said two applications have been filed on behalf of the applicants, then it was stated by them that the prayer made in the two applications filed on behalf of the applicants by them are different.

2. Sri R.S. Singh and Sri G.S. Dwivedi, learned counsel appearing in Criminal Misc. 482, Cr.P.C. Application No. 890 of 2015 [Pramod Soni and others v. State of U. P. and another), could not reply to the query of the court as to why there was no disclosure of the earlier filing of the 482, Cr.P.C. Application, i.e., 866 of 2015 filed on behalf of the applicants, they only stated that the prayer made in the 482. Cr.P.C. application filed by them is for quashing of the impugned order dated 19.11.2014 passed by Judicial Magistrate IIrd, Allahabad by which non-bailable warrants have been issued against the applicants and they tendered unconditional apology on behalf of the applicants and stated that the said application be dismissed as not pressed.

3. Sri Yashpal, learned counsel appearing in Criminal Misc. 482, Cr.P.C. Application No. 866 of 2015 has stated that he also did not have any knowledge of filing of another 482, Cr.P.C. Application No. 890 of 2015 which has also come up before this Court simultaneously as the applicants have not informed him about filing of another 482, Cr.P.C. application which has been filed against the non-bailable warrants issued against them by the trial court on 19.11.2014 and also tendered conditional apology on behalf of the applicants.

4. Learned A.G.A. on the other hand, has stated that the conduct of the applicants in filing two 482, Cr.P.C. application through different counsel in the same very crime number though with different prayer shows the conduct of the applicants in not approaching the court with clean hands and to obtain orders in their favour by misleading the court and they should be dealt with strictly.

5. Considered the submissions advanced by the learned counsel for the parties and perused the record.

6. From the perusal of the prayer of both the two 482, Cr.P.C. application, no doubt that there are different prayers made by the applicants in the said applications, but they pertain to the same case which has been launched against them, i.e., Case Crime No. 48 of 2011, under Sections 498A, 323, 504, 506, I.P.C. and 3/4 D.P. Act, P.S. Phoolpur, District Allahabad pending in the court of Judicial Magistrate, IIrd, Allahabad. As has been stated above that the aforesaid two 482, Cr.P.C. applications have come up before this Court on the same day, i.e., 21.1.2015 at a short interval of time, hence, the said cases were clubbed together and were ordered to be listed in the additional cause list on 22.1.2015, which are listed today.

7. The explanation given by Sri R.S. Singh and Sri G.S. Dwivedi, learned counsel appearing in Crl. Misc. 482, Cr.P.C. Application No. 890 of 2015 filed on behalf of the applicants for not disclosing the fact that applicants have earlier filed another

Crl. Misc. 482, Cr.P.C. Application No. 866 of 2015 for quashing the proceedings of Criminal Case No. 2061 of 2013 [State v. Pramod Soni) arising out of Case Crime No. 48 of 2011, under Sections 498A, 323, 504, 506, I.P.C. and 3/4, D.P. Act, i.e., the present case, they stated that they are also very much disturbed after seeing the conduct of the applicants and deponent of the case Pramod Soni son of Dhani Ram Soni who is applicant No. 1 and were also surprised that they were also not informed by the applicant/deponent of the case regarding filing of the earlier petition by them for quashing the proceedings, but they only tendered their unconditional apology on behalf of the applicants and stated that the 482, Cr.P.C. application filed by them on behalf of the applicants be dismissed as not pressed.

8. Similarly, Sri Yashpal learned counsel appearing in Crl. Misc. 482, Cr.P.C. Application No. 866 of 2015 also could not give satisfactory reply that as to why the present application was also filed on behalf of the applicants for quashing the proceeding without disclosing the fact that they have also instructed Sri R.S. Dwivedi and Sri G.S. Singh for filing another Crl. Misc. 482, Cr.P.C. Application No. 890 of 2015 for quashing the non-bailable warrants issued against them in the said case and he also tendered unconditional apology on behalf of the applicants. The deponent of the case, namely, Dhani Ram Soni son of Bhullur Soni is applicant No. 5 in Crl. Misc. 482, Cr.P.C. Application No. 866 of 2015.

9. The deponents of both the cases are the applicants in both the cases and they happen to be father and son, as is apparent from the affidavits filed in support of the aforesaid two 482, Cr.P.C. applications and to presume that they did not have any knowledge about filing of the applications on behalf of each other and other applicants in which they are the deponents is not acceptable.

10. It has become a regular practice before this Court by the litigants that as soon as the criminal case is instituted against them, then they indulged the multiplicity of the litigations with respect to the same case before this Court at different forums and with different prayers and also sometimes with same prayer and for same cause of action though their aim object is; one to get the criminal proceedings against them quashed; and further they do not disclose the fact in the petitions filed by them about filing of the earlier petitions or subsequent petitions filed by them before this Court in the same crime number and criminal case going on or pending against them before this Court which results into inordinate delay in the disposal of the cases by this Court as well as by the court below and the "victim/aggrieved persons have to run to court of law for seeking speedy justice.

11. This mischievous conduct of the accused and litigants before this Court is creating havoc, due to which there are huge number of cases filed daily in the court especially in 482, Cr.P.C. applications and some time there also appears to be conflicting orders of court of a coordinate Bench, which creates hurdle in dispensation of justice and also embarrassment to the lawyers who also taken by surprise when any such application or order of the court comes in their

knowledge, which has to be discouraged and stopped by this Court and to be handled by dealing the matter strictly.

12. The two cases which have been filed by the same accused persons with different prayers shows that they indulged in mal-practice in order to obtain a favourable order in their favour by misusing the process of law which is evident from the fact that the deponents of both the cases are father and son who are the applicants also in the aforesaid two applications,. It is crystal clear that they avoided the proceedings of the trial court since 28.6.2013 when the learned Magistrate took cognizance of offence on the charge-sheet submitted against them and summoned them but they did not appear, hence non-bailable warrants have been issued against them on 19.11.2014 by the trial court and they have also not surrendered and obtained bail from the competent court.

13. Thus, the court desired to prosecute the deponents of both the two cases, who are father and son, for misleading this Court and made concealment of material fact for not disclosing the filing of the 482, Cr.P.C. application by each of them in the aforesaid two applications, though they were having knowledge about the filing of the 482, Cr.P.C. applications by them through different counsel. It was sheer co-incident that both the aforesaid two applications have come up before this Court on the same day, hence the same was pointed out, for which the court has taken judicial notice and called explanation from the respective counsel of the applicants in both the cases, who failed to submit plausible explanation.

14. The court express its displeasure for such mischievous conduct of the deponents of both the aforesaid cases and wanted to prosecute them for perjury and concealment material fact, but the learned counsel for the applicants have tendered oral unconditional apology on behalf of the applicants and stated that the deponent of both the cases are the father and son and may not be prosecuted for perjury and the petition may be dismissed with an exemplary cost.

15. Taking into account that the applicants have tried to mislead this Court and made a material concealment of fact in the aforesaid two 482, Cr.P.C. application and further they have misused the process of law for their own vested interest and tried to obtain order in their favour, both the aforesaid two 482, Cr.P.C. applications are hereby dismissed with a cost of Rs. 50,000, which shall be deposited by the deponents of both the aforesaid two cases, namely, Dhani Ram Soni, son of Bhullur Soni, resident of 52 Kumbhia Harijan Basti, (Ward No. 1). P.S. Patti. Tehsil Patti, District Pratapgarh and Pramod Soni son of Dhani Ram, resident of Village Kumbhia (Ward No. 1), P.S. Kotwali Patti, District Pratapgarh, who are father and son and are also one of the applicants in both the aforesaid two 482, Cr.P.C. applications in equal shares, i.e., Rs. 25,000 each before the C.J.M. concerned within two months from today and if the same is deposited by the applicants, out of which Rs. 40,000 shall be given to opp. party No. 2, Smt. Milan Soni, daughter of Kanhaiya Lal, who is wife of Pramod Soni and Rs. 10,000 shall be transmitted by the C.J.M. concerned to the concerned District Legal Cell.

In view of the foregoing discussions, both the aforesaid two 482, Cr.P.C. applications are hereby dismissed on this ground alone.