

Court No. - 74

Case :- APPLICATION U/S 482 No. - 16936 of 2024

Applicant :- Praveen Kumar Singh And 2 Others

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Praveen Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Saurabh Shyam Shamshery,J.

1. Germane of this case is arising out of an order passed by this Court on 20.02.2023 in Praveen Kumar Singh vs. State of U.P. and others (Writ-C No. 5703 of 2023), Neutral Citation No. 2023:AHC:40007. For reference said order is reproduced hereinafter:

“1. Petitioner has recently enrolled as an Advocate and being a bona fide citizen of village concerned he has filed complaint against existing Village Pradhan for irregularities committed and a detailed complaint was presented before District Magistrate concerned. Consequently, inquiry was initiated under concerned Rules.

2. Sri Praveen Kumar Singh, petitioner in person, submits that a notice was issued to contesting respondent, however, till date no reply has been submitted and as such inquiry has not been concluded.

3. Learned Standing Counsel appearing for State-Respondents, submits that since inquiry has been initiated, therefore, Inquiry Officer will take all endeavor to conclude inquiry expeditiously.

4. In view of above, without expressing any opinion on merit of the case, the writ petition is disposed with observation that District Magistrate concerned will look into the matter and take all appropriate steps for expeditious conclusion of inquiry by Inquiry Officer, in accordance with law.”

2. It appears that in pursuance of above order, Government Officials conducted inspection of concerned place, i.e., a Pond. Facts of the case further disclosed that allegedly some obstructions were made and some struggle took place due to which inspection was not completed. Facts further revealed that on basis of cross version, two FIRs were lodged. First being Case Crime No. 0139 of 2023 for offences under Sections 147, 148, 149, 308, 323, 504, 506 IPC was lodged by Applicant-1 against five named

accused and accused no. 1 being Dharmendra Singh (Opposite Party No. 2 herein), who was claimed to be a Pradhanpati (his wife being an elected Gram Pradhan). Contents of FIR are reproduced hereinafter:

“सेवा में, थानाध्यक्ष- शंकरगढ़ प्रयागराज, (उ०प्र०) विषय:- प्रथम सूचना रिपोर्ट दर्ज कराने के संदर्भ में। महोदय, निवेदन है कि प्रार्थी प्रवीण कुमार सिंह पुत्र श्री अच्छेलाल सिंह, निवासी ग्राम- पहाडी कला, थाना- शंकरगढ़, जिला प्रयागराज का निवासी है वर्तमान समय में मा० उच्च न्यायालय मे वकालत करता हूँ आज दिनांक 22.06.2023 को मा० उच्च न्यायालय के रिट याचिका संख्या 5703/2023 के अनुक्रम समय करीब लगभग 6.35 PM (शाम) जिला कार्यक्रम अधिकारी (नोडल जांच अधिकारी) एवं अन्य अधिकारियों कर्मचारियों के साथ ग्राम पंचायत पहाडी कलां के मजरा बसदेवा में मनरेगा से बने पार्क का निरीक्षण/जाँच कर रहे थे उसी समय हमारे ग्राम के धर्मेन्द्र सिंह पुत्र स्व० छोटेलाल (प्रधान पति) एवं नारेन्द्र सिंह पुत्र स्व० छोटे लाल, पार्थ सिंह पुत्र धमेन्द्र सिंह, लाल प्रताप सिंह पुत्र चन्दमणि सिंह निवासी पहाडी कलां, विरेन्द्र पुत्र नर्वदा सिंह आदि 4 निवासी गण बसदेवा, थाना- शंकरगढ़ एक राय होकर लाठी, से मेरे सिर पर मारे जिससे मैं बेहोश होकर गिर पड़ा तथा मेरे चाचा श्री आत्मा प्रसाद सिंह को भी बुरी तरह लात घूसो से मारे पीटे, मेरे गांव के गुलाब सिंह पुत्र राजाराम सिंह व दल प्रताप सिंह पुत्र स्व० राम जियावन सिंह, विद्यासागर पुत्र स्व महावीर निवासी पहाडी कलां आदि कई लोगों द्वारा बीच बचाव किया गया जिससे हम दोनो की जान बची नही तो हम लोगों की हत्या कर दी जाती अभियुक्त गणों द्वारा बीच बचाव के उपरान्त गाली गलौज देते हुये जान से मारने की धमकी दी गयी कि अगर दुबारा जांच कराओगे तो जान से हाथ धो बैठेंगे इस घटना क्रम का तात्कालिक वीडियो भी बनाया है। हम लोगो की जान बची तो देखा कि मेरे चाचा आत्मा प्रसाद सिंह का मोबाईल व पर्स नहीं है इस बात की जच जरिये F.I.R दर्ज कर सर्विलांस से जच कराने की कृपा करे।”

3. A cross version was also lodged at the instance of Dharmendra Singh, the so called Pradhanpati against applicant and two others being Case Crime No. 0140 of 2023 for offences under Sections 323, 504, 506 IPC and contents thereof is also mentioned hereinafter:

“सेवा मे, श्रीमान थाना प्रभारी जी थाना शंकरगढ़ प्रयागराज उ.प्र. महोदय जी, निवेदन है कि प्रार्थी धर्मेन्द्र सिंह पुत्र स्व० श्री छोटेलाल सिंह ग्राम बसदेवा थाना शंकरगढ़ का स्थाई निवाशी है आज दिनांक

22/6/23 को समय लगभग शाम सात (7) बजे मेरे गांव मे विकाश कार्यों की जांच चल रही थी तभी आत्मा प्रसाद सिंह पुत्र श्री गोविन्द सिंह, प्रवीण सिंह पुत्र श्री अच्छेलाल सिंह, विद्यासागर विश्वकर्मा पुत्र महावीर जो स्थाई निवाशी पहाड़ी कला गाव के है वाद विवाद करने लगे जिनको मेरे द्वारा रोकने पर मुझसे हाथा। पाई करने लगे व मुझ मारे पीटे भी और मेरे माँ बहन की भद्दी भद्दी गाली देने लगे तथा मुझ जान से मारने की धमकी भी दे रहे थे। अतः श्रीमान जी से निवेदन है कि मेरी प्रथम सूचना रिपोर्ट लिखकर उचित कार्यवाही करने की कृपा करे अति कृपा होगी।"

4. Investigation was conducted in both cases and charge sheet was filed whereon cognizance was taken and respective summoning orders were passed by concerned Trial Court.
5. Applicants have challenged charge sheet No. 162 of 2023, cognizance order dated 08.12.2023 and summoning order dated 29.01.2024, arising out of Case Crime No. 0140 of 2023 (State vs. Atma Prasad Singh and others), under Sections 323, 504, 506 IPC, Police Station Shankargarh, District Prayagraj, pending in the Court of Additional Chief Judicial Magistrate-15, Prayagraj.
6. Notice was issued alongwith Dasti summon. Certificate of Dasti summon is filed today which is taken on record that notice was served upon Opposite Party No. 2, however, none appeared on his behalf.
7. I have heard Sri Praveen Kumar Singh, Applicant-1, in person, for all applicants and learned AGA for State.
8. Court takes note that according to version of both FIRs, alleged occurrence took place in presence of Nodal Officer, who was inspecting Pond but respective Investigating Officers have not took endeavour even to record their statements to verify the allegations and have filed respective charge sheets.
9. Inspection was conducted in pursuance of an order passed by this Court, as referred above, therefore, it was the duty of State to maintain peace and law and order but appears that the same was not taken care of.

10. In Village Panchayats elections for Pradhan are held reserving some seats for Women candidates. It become a practice that though a Woman of concerned Village Panchayat was elected but show is run by her Husband only declaring themselves to be Pradhanpati and elected Pradhan become only a rubber stamp. This Court in the case of **Gaon Sabha vs. State of U.P. and others, Neutral Citation No. - 2023:AHC:224233** has deprecated such terminology and interference of work of a Panchayat at this instance and for reference relevant paragraphs of judgment are reproduced hereinafter:

“1. The term ‘Pradhanpati’ is a very popular and widely used term in State of Uttar Pradesh. It is used for “the Husband” of a woman Pradhan. Despite being an unauthorized authority, “Pradhanpati” unauthorisedly, usually undertakes work of a woman Pradhan, i.e., his wife. There are many instances where a woman Pradhan only acts like a rubber stamp and for all practical purposes, all major decisions are taken by so called “Pradhanpati”, and elected representative just acts like mute spectator. The present writ petition is a glaring example of such a situation.

2. xxxxx

3. In the capacity of Pradhan, petitioner has no power to delegate her rights, duties and obligations to her husband or any other person, arising out of her elected post. The pairokar, i.e., “Pradhanpati” has no business to interfere with the working of Gaon Sabha. If such act is permitted it will not only frustrate objective of women empowerment but also object of providing specific reservation to women to come forward and join main stream of politics and increase their participation in social, economic and cultural growth of nation.

4. The Court is aware that there are women Pradhans in State of Uttar Pradesh, who are exercising their power, rights and duties and legal obligations effectively and are doing very good work for village concerned. However, the present case does not appear to be such.

5. In view of above, this writ petition is dismissed with cost of Rs. 5000/- each to be paid by petitioner-Karmjeet Kaur and her husband, Sukhdev Singh (Pairokar in present writ petition) by Demand Draft from their respective Bank accounts in favour of Registrar General of this Court within two weeks from today. In case of default, Registrar General is permitted to proceed in accordance with law.

6. A copy of this order be sent to District Magistrate, Bijnor so that Sri Sukhdev Singh shall be barred from entering in the office of Gaon Sabha concerned in the capacity of "Pradhanpati" as well as to act as a representative of Pradhan for rest of her present term of office, except as a common villager.

7. A copy of this order shall also be sent to State Election Commission so that it may consider to issue a Circular for all candidates for future elections, cautioning them to be careful in exercising their powers, functions and duties as a representative of village not as mere rubber stamp of her husband or relatives (in case of woman Pradhan), and it may include such declaration in their affidavit filed at the time of presenting their nomination paper.

8. A copy of this order shall also be sent to Principal Secretary, Panchayat Raj, Government of U.P., Lucknow to circulate it to all Gaon Sabha of State of Uttar Pradesh."

11. It was the duty of State to comply the said order passed by this Court and to maintain peace and law and order, however, they have miserably failed to do so.

12. Sri Praveen Kumar Singh, appearing in person, has referred to injuries allegedly caused to Pradhanpati, i.e., complainant of present case. Medical examination was conducted after five days and though a fracture of nasal bone was shown but it does not co-relate with date of alleged occurrence. He also referred that a Medical Board was constituted which has given report being part of this application that Investigating Officer was failed to submit any medical examination report as well as complainant has also not submitted any report from hospital where he was referred. For reference said report of Medical Board is reproduced hereinafter:

"उपरोक्त विषयक आपके पत्र संख्या -मु०चि०अ०/ आर०टी०आई०/2023-24/7892, दिनांक-16.12.2023 के साथ संलग्न श्री प्रवीण कुमार सिंह (एडवोकेट) पता-ग्राम पहाड़ीकला, पोस्ट नौडिया उपरहार शंकरगढ़ प्रयागराज का पत्र जो जनसूचना अधिकार अधिनियम 2005 के अन्तर्गत मांगी सूचना से सम्बन्धित है, के क्रम में अवगत कराना है कि श्री प्रवीण कुमार सिंह (एडवोकेट) द्वारा आई०जी०आर०एस० के माध्यम से दिये गये प्रार्थना पत्र दिनांक - 11.08.2023 ने इस कार्यालय के पत्र संख्या -4390, दिनांक 18.08.2023 के चिकित्साधिकारियों का मेडिकल बोर्ड गठित करते हुए

श्री धर्मेन्द्र कुमार सिंह के पुनः मेडिकल परीक्षण हेतु दिनांक - 16.09.2023 की तिथि निर्धारित की गयी थी। निर्धारित तिथि पर श्री धर्मेन्द्र कुमार सिंह पुत्र स्व० छोटेलाल सिंह पता -ग्राम बसदेवा थाना शंकरगढ़ प्रयागराज को मेडिकल बोर्ड द्वारा तेज बहादुर सपू चिकित्सालय प्रयागराज एक्स-रे नोज के लिए सन्दर्भित किया गया था. परन्तु आज दिनांक-28.12.2023 तक श्री धर्मेन्द्र कुमार सिंह की एक्स-रे नोजरिपोर्ट अधोहस्ताक्षरी कार्यालय को अप्राप्त है एवं थानाध्यक्ष शंकरगढ़ प्रयागराज द्वारा भी अभी तक श्री धर्मेन्द्र कुमार सिंह के पूर्व में हुए मेडिकल प्रपत्र उपलब्ध नहीं कराये गये है। जिस कारण बोर्ड की कार्यवाही पूर्ण नहीं हो सकी।”

13. Sri Praveen Kumar also refers relevant paragraphs of application being paras no. 27, 28, 29, 30 and 31, which are reproduced hereinafter:

“27. That the applicant no1 an Advocate, practising before the Hon’ble Court, and he has made application for stopping the embezzlement of Government Fund which are provided to the public interest, but the opposite party no. 2 has embezzled the very huge money of public fund, resulted the implication of fasely.

28. That earlier to the Present Pradhan of Village of opposite party no. 2 wife namely Jeet Luxmi Singh Patel the brother of opposite party no. 2 was also Pradhan of village, therefore, to save skin of Both Pradhanies Tenure, embezzlements, manipulation, the opposite party No.2 has falsely implicated to the petitioner.

29. That earlier to this episode stated above, the applicant no. 3 has also made application for stopping the embezzlement of Government Fund against the Pradhan, the muscles persons of opposite party no. 2 (Namely Lal Pratap, Bhanja(Son of real sister of Gram Pradhan, Mahendra Pal(Real Jeera) brother in-law, Manoj Kumar (Bhanja) son of real sister) have beaten the applicant no. 3 Vidya Sagar, for which he has lodged the first information report dated 21.08.2022 as case Crime No. 0230 of 2022, under Section 323, 504, 506 IPC PS Shankargarh, Prayagraj.

30. That the accused Lal Pratap Singh of Case Crime No. 230 of 2022 has a Criminal History in heinous crime implicated in several crimes.

31. That opposite party no. 2 is a habitual for usurping/ grabbing and embezzlement of Government fund provided for public welfare, no can speak even a single words against the opposite party no. 2, and there is no personal interest to make application 23.07.2022 made by the petitioner before the District Magistrate, Prayagraj.”

14. Learned AGA has tried to support charge sheet as well as summoning order, however, all the above referred submissions remained uncontroverted.

15. In aforesaid circumstances, taking note of above referred discussion, it appears that cross version is false case and injury report of Pradhanpati was also manipulated which is clearly evident from report of Medical Board, as referred above. It appears that complainant, i.e., Pradhanpati, is an influential person and investigation of present case was conducted under his influence. Investigating Officer has not recorded statements of Government Officials, who were allegedly present on spot for conducting inspection.

16. In view of above, the application is allowed. Impugned charge sheet No. 162 of 2023, cognizance order dated 08.12.2023 and summoning order dated 29.01.2024, arising out of Case Crime No. 0140 of 2023 (State vs. Atma Prasad Singh and others), under Sections 323, 504, 506 IPC, Police Station Shankargarh, District Prayagraj, pending in the Court of Additional Chief Judicial Magistrate-15, Prayagraj, are hereby quashed. A cost of Rs. 50,000/- is imposed on complainant, i.e., Pradhanpati for misleading and influencing the investigation and interrupting the inspection proceedings.

17. Registrar (Compliance) to take steps.

Order Date :- 25.07.2024

AK