

Court No. - 49

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Case :- APPLICATION U/S 482 No. - 7398 of 2021

Applicant :- Jung Bahadur Singh And Another

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

Counsel for Applicant :- Om Prakash Rai, Ashish Rai

Counsel for Opposite Party :- G.A.

with

Case :- APPLICATION U/S 482 No. - 6331 of 2021

Applicant :- Mohit Rana And 3 Others

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

Counsel for Applicant :- Kumar Dhananjay

Counsel for Opposite Party :- G.A., Ashok Kumar Singh

Hon'ble Vivek Agarwal, J.

Sri O.P. Rai, learned counsel for the applicants is present with Sri Jung Bahadur Singh son of Sri Ram Kiran Singh and Sri Pankaj Kumar son of Sri Vijendra Singh.

In connected case, Sri Kumar Dhananjay, learned counsel for the applicant is present with Sri Mohit Rana son of Sri Rakesh Singh.

Sri Mohit Rana submits that he had collected papers, money and Vakalatnama from Pankaj Kumar and had handed over the same to his counsel, Sri Kumar Dhananjay for filing of petition, which was actually filed on 16.02.2021. It is submitted that 6-7 days, thereafter, he had received a call from Pankaj Kumar informing him that he is filing another petition with Jung Bahadur Singh, but when he tried to contact his counsel, Sri Kumar Dhananjay, he could neither contact him nor inform him about not impleading Pankaj Kumar as one of the petitioners.

Sri Pankaj Kumar apologies for his act of indiscretion.

However, the fact of the matter is that this is just a tip of the iceberg. There is growing tendency which is spreading its

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tentacles like anything because of poor systemic support in the High Court, either due to lack of up-gradation of the technology or because of human error, that such tactics on behalf of the litigant(s) of filing multiple litigation originating from the same cause of action is growing in number, causing undue burden on the system at the cost of deserving and needy litigant(s). Therefore, though Sri Pankaj Kumar has tendered his unconditional apology for his mistake of filing two petitions on the same subject matter, claiming same relief with two different set of petitioners, but if this apology is accepted, then the damage already caused to the system will not be repaired and as a compensatory cost so also as a deterrent heavy cost is required to be imposed on such litigant(s), who indulge in filing of multiple petitions.

Sri Pankaj Kumar submits that he is a contract employee (conductor) in U.P.S.R.T.C. and get salary to the tune of Rs.12,000/-(twelve thousand) per month.

Taking into consideration age of the applicant-Pankaj Kumar and nature of his vocation, which is temporary in nature, this Court is of the opinion that a deterrent cost of Rs.20,000/- will be sufficient.

Let cost of Rs.20,000/-(twenty thousand) be deposited by Sri Pankaj Kumar for playing fraud on the system of filing multiple petitions on the same subjects, claiming same relief with the Legal Services Authority of the High Court of Judicature at Allahabad within 30 days from today, failing which, Registrar General of this Court will be free to get it recovered through Depot Manager, U.P.S.R.T.C., Kaushambi.

On merits.

Heard Sri O.P. Rai and Sri Kumar Dhananjay, learned counsel for the applicants in both the Applications.

Learned counsel for the applicant (Application No.7398 of 2021) is directed to delete name of Sri Pankaj Kumar son of Sri Vijendra Singh from the array of the parties during the course of the day.

Applicants are aggrieved of order dated 18.11.2020 passed by learned Additional Civil Judge (Junior Division)-II/Judicial Magistrate, Hapur, whereby summons have been issued against the applicant under Sections 500, 323, 452, 504, 506 IPC.

Learned counsel for the applicants submits that complainant Sunita was Gram Pradhan and her allegation is that on Twitter Handle of Mohit Rana, he had made a post that against a work, worth Rs.98,000/-(ninety eight thousand) Gram Pradhan had paid a sum of Rs.9,80,000/-(nine lakhs and eighty thousand) and had made allegations in regard to corruption against Gram Pradhan. According to the complainant, this post caused defamation to her reputation and, thereafter, she had given a notice seeking apology from the applicants, but applicants in place of replying to the notice, had gathered on 16.10.2020 at about 6:00 p.m. armed with '*dandas*' and not only abused the Pradhan, but had beaten her and had threatened her with dire consequences. It is submitted that notice dated 21.08.2020 is on record as Annexure-4. Reply was furnished on 05.09.2020, wherein, applicants had categorically mentioned that they should not be harassed with unnecessary notices and they shall take all necessary action to defend their cause. It is submitted that when complainant could not persuade the applicants from retracting from their stand on allegations of corruption, then she has falsely implicated them. It is submitted that neither ingredients of Sections 500 nor of 147, 323, 452, 504, 506 IPC

are made out, in fact, there is no medical report on record to substantiate these allegations and the court below has arbitrarily and in a mechanical manner issued notices summoning the applicants.

Reading statements of the complainant, it is evident that her grievance is on account of a complaint made by the applicants to the District Magistrate, Hapur as a consequence of which, her charge of Gram Pradhan was snatched by the District Magistrate, Hapur and there is no allegation of any defamation being caused on account of the alleged post made by Mohit Rana on his Twitter Handle. Thus, prima facie allegations of defamation are not made out.

Apology tendered by Sri Jung Bahadur Sing son of Sri Ram Kiran Singh and Sri Pankaj Kumar son of Sri Vijendra Singh is accepted and they are warned to be more careful in future.

Issue notice to the respondent no.2 on payment of Process Fee within seven days returnable in four weeks.

As an interim measure, it is directed that let no coercive action be taken against the applicants till the next date of listing.

List on 11.11.2021

Order Date :- 9.9.2021
Ashutosh