

14 12.07.2019
AN Ct. No. 14

WP 26517(W) of 2016
with
W.P. 9934(W) of 2016

Shakti Shankar Bagchi
-vs.-
State & ors.

Mr. Shakti Sankar Bagchi
... for the writ petitioner (in person)

Mr. Siddhartha Banerjee
Mr. Piyush Biswas
... for the High Court Administration

Re: W.P. 9934(W) of 2016.

The writ petitioner appears in person.

The principal grievance in the instant writ petition is that the writ petitioner claims a contractual relationship with a singer from a foreign country. For the said singer having allegedly committed offences under Sections 406, 420 and 506 of the Indian Penal Code, he had initiated proceedings before the learned Magistrate (2nd Court) at Berhampore.

Cognizance was taken of the petitioner's complaint and summons was issued. On failure of the accused to respond to summons, a warrant of arrest was issued. The process for execution of the warrant, since the accused is a Foreign National, was required to be ascertained from the Ministry of External Affairs. The process was on. In the meantime, the accused obtained bail from the learned court below but failed to comply with the conditions stipulated therein. Consequently, a warrant came to be issued again.

The writ petitioner alleges that the said lady singer visited India on two occasions, yet the Indian Police did not execute such

warrant. A Coordinate Bench of this court had called for a report from the Police Authorities that was pending consideration.

In the meantime, the writ petitioner pursued his criminal proceedings in the Court below seeking execution of warrant of arrest. He, inter alia, alleged that there was tampering of records in the form of change of name of the Judge concerned in order passed by court below. He also alleged that the aforesaid Magistrate threatened and abused him in court.

The allegations were taken up and misbehaviour of the Judge in the learned court below was duly addressed by this court, as submitted by the learned counsel for the High Court Administration.

The instant writ petition was filed in the year 2016. Another writ petition being WP 26517(W) of 2016 had also been filed around the same time.

The instant writ petition displays disgraceful, unparliamentary, unwarranted, contumacious, unexpected and absolutely unacceptable language, by a person; claiming to be an educated citizen of this country, being used against the Judges of the court below and Judges of this Court, past and present.

This Court for the purpose of instant order sets out some statements made in the writ petition, hereunder:

“... It reveals that District Judge and C.J.M.’s Judiciary proper education shattered by idiocy and ignorance, that’s why higher authority always trying to put them into right path, but they are like dog’s tail, straightened but bend again when released. Street dogs are interfering the ceremonial house without invitation, District Judge and C.J.M. Berhampore, Murshidabad and Judicial persons also intervene into my R.T.I. applications reply which is my fundamental right as per Constitution of India....”

“... They formed an illegal relation (Chain) between the accused and authority and controlling the judgment at their will and made the law underneath (Pet) to those rich accused. Even when Article 235 lodged (suggested by Hon'ble Supreme Court), the higher authority sending it to Lower Court by-passing and thus rejected in Lower Court to safeguard their vested interest. What the Constitution suggests? Article 235 can be judged in Lower Court? Is it not reveals the ignorance of Hon'ble Justice? In the case of Article 235 appealed for first time, order passed by the Hon'ble Judge (Tarun Kumar Gupta) which is not related with allegation, Second time the Hon'ble Judge (Jaymalya Bagchi) sent it to Lower Court and thus rejected. ...”

As many as nine Coordinate Benches have released these matters.

There are complaints made before the Hon'ble Supreme Court in writing. However, the writ petitioner could not demonstrate before me as to whether there is any proceeding that has been lodged or is pending before the Hon'ble Supreme Court.

In course of the hearing, a learned advocate, Mr. Abhijit Chakraborty (2) has been assisting the writ petitioner in making such kind of allegations against the Judges concerned and is deliberately egging him on to make such abhorrent submissions. Mr. Chakraborty, in open Court, however, denies such assistance being rendered to the petitioner.

On the contrary, learned counsel for the High Court Administration and other advocates present in the Court firmly suggest and point out the participation of the said learned advocate.

This Court does not wish to go into the conduct of Mr. Abhijit Chakraborty (2) advocate except to remind him of the code of conduct under the Bar Council of India Act 1926.

This court, however, finds that the writ petitioner has made scandalous allegations against Judges of this court that are neither supported by any document, nor are borne out of the records of this writ petition. Some sitting Judges have also being made parties to the writ petition. They have not been served. Scandalous and unprecedented allegations have also been made against two former Chief Justices of this Court.

Let us now deal with the main contentions of the petitioner.

The first of such contention is that records of Berhampore Court have been tampered with. It has been found on scrutiny by High Court Administration as well as by the District Judge who subsequently took over charge, that there is in fact no tampering and only typographical errors in the orders that have been corrected.

The second contention that a Coordinate Bench of this court has not accepted the petitioner's contention of tampering of records.

It is now well settled that a Court of Record acts on the basis of documents and evidence. The said allegation, therefore, has been dealt with in one form or the other and rejected by this court. A communication to that effect has been issued on 05.04.2013 by the Registrar (Inspection II) of this Court.

It is well settled that once an allegation has been decided at an administrative level and approved by the judicial side, the same assumes finality and cannot be challenged any further. Hence, the allegation of the writ petitioner at page 111 of the writ petitioner must be deemed to have been conclusively addressed by this court.

Let us now come to the statements made in paragraph 43, 44 and 48 of the writ petition. The said statements are set out hereinbelow.

43. That the petitioner states that Ld. J.M. (S.M. Sahanawaz) continued harassment to the petitioner like former two Ld. J.M. from 2011, Ld. C.J.M. Berhampore and District Judge Murshidabad as well as High Courts inactiveness and fruitless steps encouraged the J.M. and court employees. Former Hon'ble Chief Justice, Arun Kumar Mishra and present Hon'ble Chief Justice Manjula Chellur, Registrar General, Inspection I Registrar, Ld. Registrar (Administration) and Hon'ble Justice Biswanath Samaddar, Hon'ble Justice Tarun Kumar Gupta and Hon'ble Justice Joy Malya Bagchi, all from High Court Calcutta with their ignorance of law and constitution of India encouraged the whole crime. Are they not showed their illiteracy about law and constitution of India? Are they unconscious about allegations on and on and the petitioners seeks justice on those allegations. Why Calcutta High Court remained silent about my allegations and playing tricks in so many ways? Ld. J.M.'s (S.M. Sahanawaz) and his all crime is the result of Calcutta High Court's inactiveness which placed him to the extreme and he tortured me with ill-act, ill behaviour and some of points of work to be noted of his crime;

(1) District Judge, Murshidabad asked for record vide memo No. 2067/XII-E dated 18.06.14 but Ld. Court sent it vide order dated 17.06.14.

(2) On 29.09.14, petitioner before Ld. J.M. in person to appeared with petition for allegations against previous Ld. J.M. and his court employees and the main accused and his sureties and petition was with the order of Hon'ble Justice Debangshu Basak dated 05.06.14 (W.P. 13954(W) of 2012), it was astonished that the date was changed in the certify copy as 29.11.14 instead of 29.09.14 (the first para of the Ld. J.M. order shows illogical and meaningless, Hon'ble High Court's order remains 'Mentionless' and no reflection shows in the order like previous Ld. J.M., A. Mondal. And also from 2011, the 446 CRPC remains pending till date and the bail-bond of the main accused was not forfeited (through the main accused or her lawyer nor her Zaminder moved to court from 2010). The petitioner submitted petition dated 29.09.14. Ld. J.M. (S.M. Sahanawaz) order dated 29.11.14 revealed that those allegations, were vexatious, contemptuous as per his opinion and at his will. Supporting documents produced to establish my allegations did no value to him as well as law and Hon'ble High Court order and till date Ld. Court did not obeyed the guideline of Ministry of External Affairs regarding W/A (regarding the bail cancellation order) bail

was cancelled by Hon'ble High Court dated 8.3.11.

Xerox-copy of order dated 17.06.14 (Ld. J.M.'s order); order dated 29.11.14 (instead of 29.09.14) order of Hon'ble Justice Debangshu Basak dated 05.06.14 all annexed herewith and marked as annexure 'P-39'.

44. That the petitioner states that as per advise by Hon'ble Supreme Court, the petitioner seeks judgment against those accused judicial persons in Article 235, but Hon'ble Justice Tarun Kumar Gupta passed irritated order that astonished me (CRR 1236 of 2013)...

48. That the petitioner states that the continuous misdeed, ill-deed, ill-attitude, fraudulent activity, conspiracy spread from upper to lower level (on and on nexus relation between Hon'ble High Court and Lower Court) and that will ashame any noble country, put the judiciary into shameless level.

Example – 1.

R.T.I. dated 02.03.2015, First High Court denied to receive and when it made chaos, it was received by the intervention of Ld. Deputy Registrar (Admn.) and till date no reply.

Allegation (grievance) letter dated 17.03.2015, the repeatedly ill-behaviour, mis-deeds of High Court and Lower Court, the complain made to Hon'ble Chief Justice Supreme Court of India and copy served to High Court Calcutta and others, till date no response from Hon'ble High Court, Calcutta. By letter dated 19.06.2015, Judicial Department, West Bengal replied against complain letter dated 17.03.2015, directed to Hon'ble Registrar, High Court Calcutta requested him to take necessary action.

Letter dated 15.06.2015, petitioner complained against C.J.M., District Judge, Murshidabad and High Court to Hon'ble Chief Justice, High Court, Calcutta, Hon'ble Supreme Court of India and others, Hon'ble Supreme Court replied on 28.07.2015. On 07.07.2015, R.T.I. reply from High Court, Calcutta which was fraud, incomplete, planned and in grudge. The remarks from Hon'ble Chief Justice, High Court to the petitioner exposed her behaviour and manner to lowest level. The above matter was complained to Hon'ble Chief Justice, Supreme Court (and others) including Hon'ble Chief Justice, High Court, Calcutta dated 21.07.2015. Regarding the above allegation dated 21.07.2015. In reply Ministry of Law and Justice Govt. of India directed to Hon'ble Secretary General, Supreme Court of India dated 30.07.2015 to take appropriate action. R.T.I. dated 03.08.2015, against the fraud reply from High Court, Calcutta vide letter dated 07.07.2015, denied to receive and it was sent through "SPEED POST". Letter dated 06.08.2015, regarding petition dated 21.07.2015, President's Secretariat advised to Joint Secretary Department of Justice, Govt. of India for appropriate attention. Letter dated 20.08.2015, Hon'ble High Court replied but this reply was not related with R.T.I.

dated 03.08.2015.

Letter dated 30.09.2015, my Lawyer, Abhijit Chakraborty asked vide letter to Registrar General, High Court to give some information, but no response till date. Letter dated 06.11.2015 to Hon'ble Chief Justice, High Court, Calcutta but till date no response from their end. Letter dated 07.10.2015, replied regarding the letter dated 21.07.2015 from Rashtrapati Bhavan. ...”

These statements have been affirmed as true to the best of the knowledge of the writ petitioner.

The names of the Judges of this Court, past and present, taken in the petition and wild allegations of personal bias alleged are totally unsubstantiated. These allegations are a matter of grave and serious concern and must be suitably addressed with a view to protect the dignity and honour of this court.

When asked, whether the writ petitioner wrote the writ petition himself, he stated that he did so and that his qualifications were Madhyamik (Class X) pass. Thereafter, on a query by this court, he stated that he took help from his sister, who is an English (Hons.) and was also assisted by some lawyers.

The admission of the writ petitioner, as stated above, clearly indicates that the writ petitioner was and is fully conscious and aware of every word and sentence written in the paragraphs and the malign imputations therein.

Before drawing conclusions, this court chose to inform the petitioner that his primary grievance is pending adjudication before the concerned learned Additional Chief Judicial Magistrate at Berhampore.

The remedy of the petitioner is to seek cancellation of bail and if the same fails then there are other remedies available, inter alia, under the Code of Criminal Procedure.

The writ petitioner chooses not to do so and continues to level allegations against the Registry of this Court, the Hon'ble Judges of this court, the Judges of the subordinate court merely because he has not had his way in ensuring conviction of a Foreign National in a criminal case in this country.

It is not too common as has been seen in the past and even in the present that execution of civil decrees passed against persons who are nationals of other countries is difficult. Arrest and conviction of Foreign National in this country is equally arduous, if not impossible.

The proper remedy for the petitioner would have been to pursue against a Foreign National, both civil and criminal, in the country his/her nationally.

In the light of the above, this court finds that the allegations made by the petitioner against the subordinate Judges and Judges of this Court, past and present, as also other Officials in bad taste, scandalous, deliberately and willfully contumacious. Statements in pleadings of this nature, have the consequence of maligning the high dignity of this court in the eyes of the public at large.

This court finding willful and deliberate contempt committed by the petitioner, proposed a punishment of imprisonment for a term of one month and asked him to show cause as to why such punishment should not be imposed upon him.

The petitioner in reply to the same has stated that he suffers from lot of ailments including serious diabetes and also says that his mother is seriously unwell. He profusely expresses regret

and seeks an unconditional and unqualified apology before this court. He also submits that he shall not repeat his conduct again.

The Court is not satisfied with the explanation given by the petitioner.

He shall, therefore, stand sentenced to five days simple imprisonment that shall remain suspended. In lieu of undergoing sentence, the petitioner shall plant 50 trees in and around Berhampore area after the completion of his daughter's school examinations. The apology of the petitioner is expected by way of affidavit.

Considering the above, the matter shall stand adjourned until 29.07.2019 for further consideration when the petitioner shall produce a certificate issued by the Person in-charge of the Chairmanship of the Berhampore Municipality that he has planted 50 trees in and around Berhampore area.

The contempt shall be treated as suo motu.

The writ petition shall stand dismissed except for the pending contempt proceeding.

Re: WP 26517(W) of 2016.

The petitioner appearing in person unconditionally withdraws the instant writ petition being WP 26517(W) of 2016.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Rajasekhar Mantha, J.)

