

Court No. - 78

Case :- APPLICATION U/S 482 No. - 23896 of 2023

Applicant :- Randeep Singh Surjewala

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

Counsel for Applicant :- Shivam Yadav, Akhilesh Singh

Counsel for Opposite Party :- G.A.

Hon'ble Raj Beer Singh, J.

1. This application under Section 482 Cr.P.C. has been filed by the applicant for quashing of proceedings of S.T. No. 187/2023 (State Vs Randeep Singh Surjewala, case crime No. 391/ 2000, under section 147/332/353/336/333/427 IPC, section 7 Criminal Law Amendment Act and section 3 of Prevention of Damage to Public Property Act, Police Station Cantt., District Varanasi, Pending in the court of Additional Sessions Judge / Special Judge, M.P./M.L.A. Court, Varanasi.

Further Prayer has been made for quashing of order dated 28.06.2023 and 01.07.2023, passed in aforesaid case by the Trial Court, and for direction to the aforesaid Court to provide legible & readable documents along with charge sheet under section 207 Cr.P.C., in compliance of order dated 17.04.2023 passed by the Hon'ble Apex Court, as well as the order dated 08.06.2023, passed by this Court.

2. Heard Shri S.G. Hasnain, learned Senior Advocate, assisted by Shri Shivam Yadav and Shri Syed Mohd. Fazal, learned counsel for the applicant and Shri P.C. Srivastava, learned Additional Advocate General, assisted by Shri Vikas Sahai, learned A.G.A. for the State and perused the record.

3. It has been argued by learned Senior Advocate appearing on behalf of the applicant that applicant is accused in the aforesaid case and earlier he has filed an application under Section 482 Cr.P.C. for quashing the proceedings of the case, which was disposed of by this Court vide order dated 20.03.2023, wherein, the prayer for quashing of the entire proceedings was refused. However, it was directed that in case applicant files an application for discharge before the court below through counsel within a period of two weeks, the same shall be considered and decided expeditiously within a period of 6 weeks. The applicant challenged the said order before the Hon'ble Apex Court by filing S.L.P. No. 4791 of 2023, which was disposed of by the Hon'ble Apex Court vide order dated 17.04.2023, wherein, trial judge was directed to ensure that a legible copy of the charge sheet is supplied to the petitioner and after such copies are supplied, the trial judge would hear the petitioner's application for discharge in accordance with law. Learned Senior Advocate pointed out that in compliance of direction of Hon'ble Apex Court, papers of charge sheet were supplied to the counsel for the applicant on 18.05.2023 but the same were not legible. The applicant has filed an application seeking legible copies, which was disposed of by the Trial Court vide order dated 31.05.2023 by observing that in compliance of the direction of the Hon'ble Apex Court, the copy of charge sheet has already been supplied to the counsel for the applicant on 18.05.2023. It is further submitted that the applicant has filed a petition under Article 227 of Constitution of India before this Court, which was disposed of vide order dated 08.06.2023 and the trial court was again directed to provide legible copies of charge sheet, along with documents filed with it, to the applicant/accused. In compliance of

order dated 08.06.2023, the trial court has passed order dated 09.06.2023, wherein, trial judge has directed the office to supply the copies of documents in compliance of order dated 07.04.2023 passed by the Hon'ble Apex Court. It was submitted again that the copies of charge sheet and the documents were supplied to counsel for the applicant on 23.06.2023 but the same were not legible. Thereafter, applicant has again filed an application seeking legible copy of charge sheet along with appended documents. The said application was rejected vide impugned order dated 28.06.2023 by holding that legible copies of charge sheet and relevant documents have already been provided to the applicant/accused. The applicant has filed yet another application stating that copies of several documents, which are supplied to the counsel for applicant, are dim, illegible and not readable and thus, a prayer was made to supply legible and readable copies of documents filed along with charge sheet. That application was rejected by the trial court vide impugned order dated 01.07.2023.

4. Referring to above stated facts, it is submitted by learned Senior Counsel that despite the direction of Hon'ble Apex Court as well as by this Court, the legible copies of the documents, which are part of charge sheet, have not been supplied. In absence of legible copies of such documents, applicant cannot avail his right of seeking discharge. It was submitted that in view of the aforesaid facts, it is apparent that the impugned orders are liable to be quashed as the trial court may be directed to supply legible copies of the documents, forming the part of the report under section 173(2) Cr.P.C. Again an application was moved on behalf of the applicant on 01.07.2023 for supply of legible copies and specifying the documents, which are not legible but the legible and readable copies were not

supplied.

5. Shri P.C. Srivastava, learned Additional Advocate General submits that the case in question relates to the year 2000 and the proceedings of the case are being delayed on technical grounds. The legible copies of the documents forming part of the charge sheet have already been supplied to the applicant. It was pointed out that from the orders, including order dated 23.06.2023, passed by the trial court, it is apparent that legible copies of the documents have been provided to learned counsel for the applicant. It was further submitted by learned Additional Advocate General that the instant application has been filed with intention to delay the proceedings of the case.

6. I have considered the rival submissions and perused the record.

7. At the out set it may be mentioned that so far the prayer for quashing of proceedings of aforesaid case is concerned, the same prayer was also made in application under Section 482 Cr.P.C. No. 9093 of 2023, wherein, by order dated 20.03.2023, the prayer for quashing of the proceedings was refused. Thus, second petition with same prayer is not maintainable. Hence, the prayer for quashing of proceedings is refused.

8. So far the impugned orders are concerned, it transpires from record that earlier while deciding the application under Section 482 Cr.P.C. No. 9093/ 2023 vide order dated 20.03.2023, this Court has directed that in case applicant files an application for discharge before the Trial court through counsel within a period of two weeks, the same shall be considered and decided expeditiously within a period of 6 weeks.

9. The applicant challenged the said order before the Hon'ble Apex Court by filing S.L.P. No. 4791 of 2023, which was disposed of by the Hon'ble Apex Court vide order dated 17.04.2023, wherein, the Trial judge was directed to ensure that legible copy of the charge sheet is supplied to the petitioner and after such copies are supplied, the Trial judge would hear the petitioner's application for discharge in accordance with law.

In para No. 3 to 7, Hon'ble Apex Court observed as under:

"3. It is submitted that the copy of the charge sheet which is supplied is totally illegible.

4. Learned senior counsel further submits that none of the above contentions have been considered by the learned Single Judge of the High Court.

5. We find that it will not be in the interest of justice to permit the discharge application to be heard unless the petitioner has been served with a legible copy of the charge sheet.

6. We therefore, direct the learned trial Judge to ensure that a legible copy of the charge sheet is supplied to the petitioner, and after such a copy is supplied, the learned trial Judge would hear the petitioner's application for discharge in accordance with law.

7. The special leave petition stands disposed of. Pending application(s), if any, shall stand disposed of."

10. (i) It appears that in compliance of the direction of Hon'ble Apex Court, the Trial Court has supplied copy of charge sheet to the counsel of applicant vide order dated dated 18.05.2023.

(ii) The applicant filed an application seeking clear and legible copies of final report (charge sheet) including documents filed along with charge sheet. This application was disposed of by the Trial Court vide order dated 31.05.2023 by holding that the direction of Hon'ble Apex Court has already been complied with.

(iii) As per learned counsel for the applicant, the copies of the documents of

charge sheet supplied by the Trial Court were not legible and thus, the applicant has filed a petition under Article 227 of Constitution of India (Petition No. 6850 of 2023) before this Court, which was disposed of vide order dated 08.06.2023, wherein, in para Nos. 12, 13, 14, and 15 it was observed that:

"12. At this stage, learned counsel for the petitioner submits that on receipt of the legible copies, the petitioner would file the discharge application within the next seven days and the same may be decided in accordance with the direction of Hon'ble Supreme Court dated 17.4.2023 and the order dated 20.3.2023 passed by this Court in Application U/s 482 Cr.P.C. No.9093 of 2023. The petitioner shall be at liberty to file discharge application within next seven days. The trial court shall thereafter proceed in the matter as per the aforesaid orders dated 17.4.2023 and 20.3.2023.

13. Learned counsel for the petitioner assures this Court that the petitioner would participate in the proceedings before the court below and will not seek unnecessary adjournments.

14. Since the matter is very old, the court below shall take into consideration the length of the litigation ad shall proceed with the case in accordance with law in a time bound manner.

15. With the aforesaid observations/directions, the writ petition stands disposed of."

(iv) In compliance of said order dated 08.06.2023, the Trial court directed his office to supply the copies of documents forming part of the charge sheet and copies of such documents were supplied to the counsel for the applicant /accused on 23.06.2022.

(v) The applicant/ accused filed another application stating that copies of documents supplied by the Court are still not legible and readable. This application was disposed of by the Trial Court vide impugned order dated 28.06.2023 by holding that all necessary legible copies have already been supplied to the accused / applicant and in the application it has not been clarified that which of the copy is not legible and readable.

(vi) It appears that accused / applicant filed another application stating that copies of many documents supplied to accused are dim, illegible and not

readable. That application was rejected by the Trial Court vide order dated 01.07.2023 by observing that at the time of receipt of copies, no objection was raised regarding legibility of the copies of documents supplied to the accused / applicant.

11. From above mentioned sequence of events, it appears from the orders passed by the Trial Court, that in view of learned Trial Judge the legible copies of the charge sheet along with all documents forming part of it have been supplied to the applicant/ accused, whereas, the case of the applicant / accused is that the copies of several documents supplied by the Trial Court are not legible. Learned Senior Counsel for the applicant has referred copies of certain documents, annexed as annexure 'SA-4' and pointed out that the same are not legible. It appears that these documents are part of case diary. It may be mentioned here that the direction of Hon'ble Apex Court as well as by this Court has to be complied with in letter and spirit. The copies of charge sheet along with documents forming part of it have to be reasonably legible. The applicant/ accused is also cautioned that matter must not be lingered on the basis of technicalities.

12. In view of aforesaid, it is directed that in case the applicant/ accused files an application within a period of eight days from today before the Trial Court, clearly specifying such copies supplied, which are not legible, the Trial Court shall consider and decide the same expeditiously and shall ensure that reasonably legible copies of such documents are supplied to the applicant/accused. The Trial Court shall record its satisfaction that such copies, supplied to the applicant/accused, are legible. It was pointed out that original

case diary may be available with the Trial Court or with prosecution agency and if needed, copies of the relevant documents may be made from the same. The Trial Court shall ensure that the direction of the Hon'ble Apex Court as well as by this Court is complied with in letter and spirit.

13. It is further directed that for a period of eight days from today and in case the applicant / accused moves the application, as stated above, within the aforesaid period, till the disposal of such application, no coercive process shall be adopted against the applicant/ accused in the aforesaid case.

14. With aforesaid directions/ observations, the instant application is disposed of finally.

Order Date :- 12.7.2023
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