

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr.M.P. No. 524 of 2021
with
I.A. No. 11216 of 2022

Dr. Sanjay Kumar Petitioner
Versus
1. The State of Jharkhand.
2. Suman Kumari Opposite Parties

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner : In person.
For the State : Mr. Pankaj Kumar Mishra, A.P.P.
For the O.P. No. 2 : Mr. Prashant Kumar Rai, Advocate.

10/ 07.12.2022 The conduct of this petitioner with regard to I.A. No. 11216 of 2022 shall be dealt with before parting with the final order.

2. Heard the petitioner, who is appearing in person, Mr. Pankaj Kumar Mishra, learned A.P.P. for the State and Mr. Prashant Kumar Rai, learned counsel appearing for the O.P. No. 2.

3. This petition has been filed for quashing of the entire criminal proceedings including the First Information Report, in connection with Jamua P.S. Case No. 298 of 2020, registered for the offence under Sections 341, 323, 494 and 498-A of the Indian Penal Code and Section 3/4 of Dowry Prohibition Act, pending in the court of learned Chief Judicial Magistrate, Giridih.

4. The First Information Report was lodged on the basis of the written report of the informant namely Suman Kumari and the prosecution story in brief is that the marriage of the informant was solemnized with the petitioner on 28th January, 2007 and out of the wedlock, two children are there with the informant and the age of the son is 13 and the daughter is of 7 years. Further alleged that her husband and the petitioner herein posted at RIMS Hospital as the post of Deputy Superintendent and stay there. Further alleged that her husband sent the informant and her children to her parental house after mental and physical torture and about last six years the informant is staying at Mirzaganj with her parents. Further alleged that in the mean while informant's husband solemnized another marriage with one Priti Kumari, daughter of Surendera Saw, resident of Village-Malakpur, P.S.-Itkhori and District-Chatra on 13.03.2019 during her alive. Further alleged that when the informant asked about the second marriage

with the petitioner when she saw both together as wife and husband, then it was alleged that her husband started assaulting her and also abused her with filthy language and clearly asked Rs. 20 lacs as dowry from her to bring from her father, if she want to stay with the petitioner and when the informant refused to fulfill the demand of dowry then he was again assaulted and abused. And further with the aforesaid allegations the informant requested to the officer in charge to enquire about the matter and take proper legal recourse against the petitioner husband and accordingly, a first information report be lodged under Sections 341, 323, 494, 498-A of the Indian Penal Code and Section 3/4 of Dowry Prohibition Act registered as Jamua P.S. Case No. 298 of 2020 against the petitioner.

5. The petitioner, who is appearing in person submits that three FIRs have been lodged against him by the O.P. No. 2, the first FIR is Tisri P.S. Case No. 38 of 2011 corresponding to G.R. No. 831 of 2011, the second FIR is Bariatu P.S. Case No. 429 of 2013 corresponding to G.R. No. 6748 of 2013 and the third FIR is Jamua P.S. Case No. 298 of 2020(challenged in the present case). He submits that Tisri P.S. Case No. 38 of 2011 has been challenged in Cr.M.P. No. 1940 of 2019 and Bariatu P.S. Case No. 429 of 2013 has also been challenged in Cr.M.P. No. 1938 of 2019 before this Court. The Cr.M.P. No. 1938 of 2019 was admitted for hearing and stay was granted in favour of the petitioner, vide order dated 01.12.2020 and the Cr.M.P. No. 1940 of 2019 was dismissed by the said order. He further submits that the order dated 01.12.2020 passed with respect to Cr.M.P. No. 1940 of 2019 was challenged before the Hon'ble Supreme Court in S.L.P. (Cr.) No. 7327 of 2021, wherein, the Hon'ble Supreme Court has stayed that part of the order. He further submits that the cases were not being decided by the learned Court, High Court and the Supreme Court and he is being harassed by the courts.

6. On the other hand, Mr. Prashant Kumar Rai, learned counsel appearing for the O.P. No. 2 draws the attention of the court to the counter affidavit, filed on behalf of the O.P. No. 2 and submits that during the pendency of the criminal proceedings and without obtaining the divorce from his first wife, this petitioner has performed another marriage. He

submits that the certificate, issued from the Temple of marriage and the photographs of marriage are annexed as Annexure-1 and Annexure-2 series respectively and looking into the same, *prima facie*, it appears that the marriage has been solemnized, which is being disputed by the petitioner, who is appearing in person. However, this is the subject matter of trial, as the same is disputed question of fact.

7. Learned counsel appearing for the O.P. No. 2 further submits that due to conduct of this petitioner, as he has abused, assaulted and manhandled the O.P. No. 2 that's why, she has been compelled to live with their two children, who have born out of the wedlock, along with her parents. He further submits that petitioner has paid the maintenance amount and the same has been admitted by the petitioner, who is appearing in person, in view of the maintenance, awarded by the learned family court. He draws the attention of the court to the I.A. No. 11216 of 2022 and submits that the contents therein are contemptuous. He further submits that this petitioner is in habit of scandalizing the court. He earlier filed identical I.A. before the Division Bench in F.A. No. 47 of 2019 and the Division Bench has accepted his apology with condition that in future he will not repeat the same.

8. In view of the above and considering the submissions of the parties, the court has gone through the materials available on record and also the contents of the FIR and finds that it is an admitted fact that the O.P. No. 2 is the wife of the petitioner. The three FIRs have been lodged, which have been brought before the learned Court and the High Court as well as Hon'ble Supreme Court, where in all these three cases, the petitioner has been granted interim relief, in spite of that he has alleged that the proceedings are being delayed by the respective Courts.

9. Looking into the contents of the FIR, it transpires that there are allegation against the petitioner of torturing and manhandling the O.P. No. 2 for demanding Rs. 20 lacs as further dowry. There are parameters of quashing the FIR. The courts are quashing the FIRs, where allegations are found malicious and without any basis, however, if the allegations are there and no *mala fide* is involved in the matter, the courts are not quashing the FIRs. The case of the petitioner has not come under the

guidelines framed by the Hon'ble Supreme Court in the case of *State of Haryana & Others Vs. Bhajan Lal & Others*, reported in 1992 Supp. (1) SCC 335.

10. In view of the above, no relief can be extended to the petitioner, as such, this petition is dismissed.

11. Interim order, granted earlier, stands vacated.

I.A. No. 11216 of 2022.

1. The aforesaid Cr.M.P. was listed on 11.06.2021 and on that day, learned counsel has argued the matter and the petitioner was directed to implead the informant as O.P. No. 2 and the matter was fixed for 05.07.2021 and the interim order of petitioner shall not be arrested, was passed. On 05.07.2021, notice was issued to the O.P. No. 2 and the matter was fixed for 27.10.2021. On 27.10.2021, Mr. Prashant Kumar Rai has tendered his appearance on behalf of O.P. No. 2 and he took four weeks time for filing the counter affidavit in the matter and the time was allowed and the matter was fixed for 02.02.2022. On 02.02.2022, the O.P. No. 2 took further three weeks time for filing counter affidavit and the time was allowed and the matter was fixed for 27.04.2022. On 27.04.2022, the matter was adjourned and directed to be listed on 15.06.2022. On 15.06.2022 the matter was again adjourned with a view to provide an opportunity to the O.P. No. 2 and the matter was posted for 08.09.2022 and on 08.09.2022 the matter was again adjourned for 07.12.2022 to enable the petitioner to examine the counter affidavit, filed on behalf of the O.P. No. 2 that's why, this matter has been listed today.

2. The petitioner, who is appearing in person repeated his argument about lodging of three FIRs as noted above..

3. How this matter was taken up on priority basis and the petitioner was provided protection by this court has been discussed above. The Co-ordinate Bench has already granted relief in one of the FIR, however, in one case, the relief has not been extended to the petitioner, but the same has been challenged before the Hon'ble Supreme Court, wherein that order of the Co-ordinate Bench has been stayed by the Hon'ble Supreme Court.

4. Learned counsel appearing for the O.P. No. 2 draws the

attention of the Court towards the I.A. filed on by the petitioner, which is I.A. No. 11216 of 2022 and submits that in the said I.A., he has tried to scandalize the entire judiciary and has not even spared the Judges of the High Court as well as the Hon'ble Supreme Court including the Trial court. Learned counsel appearing for the O.P. No. 2 submits that this petitioner has earlier tried to scandalize the court in F.A. No. 47 of 2019, wherein vide order dated 21.05.2020, the Hon'ble Division Bench has passed the following order:-

“The appellant in person is present.

He makes unconditional apology for the statements made in I.A. No. 10876 of 2019 and prays to withdraw the same.

Taking into consideration the facts of the case, and the mental frame of the appellant when this Interlocutory Application was filed, we are inclined to accept the apology and allow the appellant to withdraw this Interlocutory Application with a warning to the appellant that there must not be any repetition of such action by him. The oral unconditional apology of the appellant is accordingly, accepted.

This Interlocutory Application is accordingly, dismissed as withdrawn.”

5. Learned A.P.P., appearing for the State submits that the petitioner has challenged only the FIR and at this Stage, this Court may not quash the FIR. He further submits that the I.A., filed by the petitioner, who is appearing in person is required to be dealt with by this court with iron hands, as there is direct allegation against the petitioner of scandalizing the entire judiciary.

6. The court has perused the I.A. No. 11216 of 2022. In the said I.A., the first prayer is made for issuing notice upon Preety Kumari and also issue direction to the police to produce said Preety Kumari. The second prayer is made for quashing of the FIR as early as possible in the interest of justice and to discourage the abuse of the process of law by someone interested by imposing heavy cost or any other punishment. The

third prayer is also made for conducting the proceeding under camera recording as well as live streaming as if 3rd eye witness about happenings inside the court as appellant will argue in person who have bitter past experience of facing judges misbehaving and speaking lie while sitting on the chair and falsely implicating appellant. These three prayers have been made in the said I.A. In the said I.A., it has been further alleged that after mutual compromise at district level itself and unfortunately then Trial Judge had acted rashly and negligently and only on second date of protest petition, he started trial when no one pressed or argued to accept the protest petition. It has also been disclosed that 7 trial judges failed to examine 9 prosecution witnesses, where judges have been prosecuting first party as well as judge, so violating natural justice and perpetuating unrest and crime in the society. It has further been alleged in the said I.A. that one Suman Kumari is misusing and abusing the law and process of the court only to harass the petitioner. It has also been alleged that the woman must be discouraged by the court in abusing the court by imposing heavy cost on her or any other punishment otherwise if judges and courts are happy in being misused and abused by one Suman Kumari, then petitioner shall also be compelled to take law in his own hand and also abuse the court in whatever way feasible.

7. On query from the court, the petitioner, who is appearing in person submits that he has stated all these things hereinabove and he has been made accused in three cases and he is also facing the trial in all these three cases. The statement made in the I.A. clearly suggests that this petitioner is appearing in person making unfounded allegations against the judges, who are working tirelessly to dispose of the matters.

8. Learned counsel appearing for the O.P. No. 2 has submitted that he has brought on record by way of counter affidavit that during the survival of the first marriage, this petitioner has re-married another lady and the conduct of the petitioner has earlier been discussed by the Division Bench in F.A. No. 47 of 2019 vide order dated 21.05.2020, which is already quoted hereinabove.

9. Looking into the order dated 21.05.2020, passed in F.A. No. 47 of 2019 (supra), it is crystal clear that he has made apology before the

Division Bench, which was accepted with a warning to the appellant / this petitioner that there must not be any repetition of such action by him, in spite of that he has filed the present I.A. This is not happening for the first time of disparaging remarks and aspersions deliberately and repeatedly made allegation against Judges of the Hon'ble Supreme Court as well as High Court and learned Trial Courts, which amounts to bring down the image of judiciary in the estimation of public and to bring administration of justice into disrepute. Once this has been brought to the knowledge of the Court, the court is bound to deal the same with iron hands.

10. All the proceedings have been witnessed by learned lawyers present in the court including Mr. Rajendra Krishna, Chairman of Jharkhand State Bar Council, Mr. Nilesh Kumar, who is also Member of the Jharkhand State Bar Council and Mr. Kumar Amit, Advocate and others present in the Court.

11. At this stage, the petitioner, who is appearing in person seeking apology and prays for withdrawal of the I.A.

12. For accepting the apology, the court is required to find out where the said apology is coming from the core of the heart or not. The apology means a regretful acknowledgement or an excuse for failure. An explanation offered to a person affected by one's action that no offence was intended, coupled with the expression of regret for any that may have been given. Apology should be unquestionable in sincerity. It should be tempered with a sense of genuine remorse and repentance, and not a calculated strategy to avoid punishment. So an apology should not be paper apology, and expression of sorrow should come from the heart and not from the pen; for it is one thing to say sorry, it is another to feel sorry. After abusing in so many words in presence of the all the lawyers, who are present in the court and when this order was dictated, the said apology was tendered, which suggests that only to by the time, he is seeking apology, and this is the second misconduct in spite of the earlier warning of the Division Bench and to allow him, he will again repeat the same.

13. It is well settled principle that an apology is not a weapon of defence to purge the guilt of the contemnor. At the same time, the apology must be sought at the earliest opportunity. The apology tendered by the

petitioner in the instant case is at belated stage is only to escape the punishment of the court it should not be acceptable. Reference may be made to the judgment of Hon'ble Supreme Court in the case of *M.C. Mehta Versus Union of India & Ors.*, reported in (2003) 5 SCC 376.

14. In that view of the above and considering that the apology is not coming from the core of the heart of the petitioner, the apology is not accepted and the same is rejected.

15. The petitioner, who is appearing is person submits that initially his tone was high, as he is aggrieved with the facing of trial in three cases and that's why he has argued in such a way. Such type of conduct is deserved to be dealt with iron hands and no sympathy to anyone with a view to avoid repetition of such contempt of others. This aspect of the matter has been considered by the Hon'ble Supreme Court in the case of *Roshan Lal Ahuja IN RE*, reported in (1993) Supp (4) SCC 446, which was considered by the three Judges of the Hon'ble Supreme Court in paras-, 1, 10, 11 and 12, which are quoted hereinbelow:-

1. Permissiveness of the judicial system which enabled the contemner to file innumerable petitions claiming the same relief arising out of the same cause of action undeterred by its refusal, on various occasions by this Court coupled with the indulgence and sympathy shown by this Court, appears to have emboldened the respondent - contemnor to cast unfounded and unwarranted aspersions and make scurrilous and indecent attacks against this Court and its Judges in wild, intemperate and even abusive language. Narration of facts to point out the extent to which the contemnor has abused the process of the Court and how indulgence and sympathy shown by this Court has been 'exploited' by him is not only desirable but necessary to appreciate how and why contempt proceedings have been initiated against him.

10. The facts are telltale and not in dispute. That the memorandum of writ petition and the representation to the President of India contain scurrilous and indecent attacks on this Court as well as on the Judges of this Court in intemperate and abusive language is not denied. The contemnor has permitted himself the liberty of using language in the offending documents which not only has the effect of scandalising and lowering the authority of

the court in relation to judicial matters but also has the effect of substantially interfering with and obstructing the administration of justice. The unfounded and unwarranted aspersions on the impartiality and ability of the judges of this Court to render justice has the tendency to undermine the authority of the court and create a distrust in the public mind as to the capacity of Judges of this Court to meet out even handed justice. The image and personality of the apex court is an integrated one. The passages in the memorandum of the writ petition and the letter addressed to the President of India attack the integrity and fairness of the Judges. The remarks made by the contemnor are disparaging in character and derogatory to the dignity of the Court and besides scandalising the court in relation to judicial matters have the tendency to shake the confidence of the public in the apex court.

11. The tendency of maligning the reputation of judicial officers by disgruntled elements who fail to secure an order which they desire is on the increase and it is high time that serious note is taken of the same. No latitude can be given to a litigant to browbeat the court. Merely because a party chooses to appear in person, it does not give him a licence to indulge in making such aspersions as have the tendency to scandalise the court in relation to judicial matters.

*12. Ordinarily, courts of law do not initiate proceedings to commit a person for contempt of court where there is mere technical contempt or where the contemnor satisfies the court that he was truly repentant for his action. Judgments of the court are open to criticism. Judges and courts are not unduly sensitive or touchy to fair and reasonable criticism of their judgments. Fair comments, even if, put-spoken, but made without any malice or attempting to impair the administration of justice and made in good faith in proper language do not attract any punishment for contempt of court. Lord Denning in *Reg v. Commissioner of Police of the Metropolis, Ex parte Blackburn*, 1968 (2) WLR 1204 made some pertinent observations in this regard. In the words of the Master of Rolls:*

“Those who comment can deal faithfully with all that is done in a court of justice. They can say

that we are mistaken, and our decisions erroneous, whether they are subject to appeal or not. All we would ask is that those who criticise us will remember that, from the nature of our office, we cannot reply to their criticism. We cannot enter into public controversy. Still less into political controversy.”

However, when from the criticism a deliberate, motivated and calculated attempt is discernible to bring down the image of judiciary in the estimation of the public or to impair the administration of justice or tend to bring the administration of justice into disrepute the courts must sister themselves to uphold their dignity and the majesty of law. No litigant can be permitted to over step the limits of fair, bonafide and reasonable criticism of a judgment and bring the courts generally in disrepute or attribute motives to the Judges rendering the judgment. Perversity, calculated to undermine the judicial system and the prestige of the court, cannot be permitted for otherwise the very foundation of the judicial system is bound to be undermined and weakened and that would be bad not only for the preservation of Rule of Law but also for the independence of judiciary. Liberty of free expression is not to be confused with a licence to make unfounded, unwarranted and irresponsible aspersions against the Judges or the courts in relation to judicial matters. No system of justice can tolerate such an unbridled licence. Of course "Justice is not a cloistered virtue; she must be allowed to suffer the scrutiny and respectful, even though outspoken, comments of ordinary men", but the members of the public have to abstain from imputing improper motives to those taking part in the administration of justice and exercise their right of free criticism without malice or in any way attempting to impair the administration of justice and refrain from making any comment which tends to scandalise the court in relation to judicial matters.

16. In this view of the matter, the petitioner is in contempt of the court. Accordingly, the Court takes *suo motu* cognizance of contempt of court against the petitioner.

17. The Cr.M.P. No. 524 of 2021 has been dismissed, as discussed

above in para- 9 and 10 (supra). In view of the above, the following order is being passed:-

- (i) Office is directed to register *suo motu* motion as *Suo Moto Contempt Proceedings* in terms of Rule 389 and other relevant Rules of the High Court of Jharkhand Rules, 2001 and under Article 215 of the Constitution of India read with Section 15 of the Contempt of Courts Act, 1971 for the purpose of record.
- (ii) Office is also directed to issue notice under Section 17 of the Contempt of Courts Act to the petitioner, who is appearing in person at the address provided in the petition as per the Contempt of Courts Act and High Court of Jharkhand Rules. Notice shall be accompanied by the entire record of this case including the dismissed Cr.M.P., as well as the I.A and the counter affidavit filed on behalf of O.P. No. 2, to be made returnable on 05.01.2023.
- (iii) Since every case of criminal contempt under Section 15, is required to be heard and determined by the Bench of not less than two Judges in terms of Section 18 of the said Act, office is directed to place the matter before Hon'ble the Chief Justice for necessary consideration.

18. In view of above, the aforesaid interlocutory application also stands disposed of.

(Sanjay Kumar Dwivedi, J.)