

Prabhu Lal Vs. State and ors

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Court : Delhi

Decided On : Sep-17-2013

Judge : G. S. Sistani

Appellant : Prabhu Lal

Respondent : State and ors

Judgement :

\$~6 * IN THE HIGH COURT OF DELHI AT NEW DELHI + W.P.(CRL) 1176/2013
% Judgment dated 17.09.2013 PRABHU LAL Through Petitioner Mr. Krishan Kumar, Advocate versus STATE & ORS Through Respondent Ms. Charu Dalal, Advocate for Mr. Saleem Ahmed, ASC for respondents No.1 to 3. Respondents No.4 & 5 in person. Ms.Gomti Devi, sister of the petitioner. CORAM: HON'BLE MR. JUSTICE G.S.SISTANI HON'BLE MR. JUSTICE G.P. MITTAL G.S.SISTANI, J (ORAL) 1. Present petition has been filed by one Shri Prabhu Lal, who claims himself to be the brother-in-law of Shri Durga Prasad. Brother and sister of Durga Prasad have been arrayed as respondents No.4 and 5 in the petition.

2. The facts which have been stated in this petition are that there was some matrimonial dispute between the sister of the petitioner and her husband which was amicably resolved with the intervention of elderly people and other well-wishers of both the parties. It has also been averred that respondents No.4 and 5 have an evil eye on the property of the father-in-law of the petitioners sister,

namely, Smt. Gomti Devi. Another averment which has been made is that respondents No.4 and 5 used to harass the sister of the petitioner, they used to beat her and unnecessarily interfere in her marital life and, further the respondents No.4 and 5 intend to grab the property of the father-in-law of the petitioners sister. The petitioners sister is stated to have lodged a complaint with Police Station Shakarpur against the family members of respondents No.4 pursuant to which an FIR was registered under Sections 498A/406/34 IPC. This FIR was quashed by the court. The petitioner then goes on to state that a complaint dated 06.05.2013 has been lodged with respondent No.2, but no action has been taken by the police to search the whereabouts of Shri Durga Prasad, husband of the petitioners sister and the petitioner has been running from pillar to post. He has visited local police station to find the whereabouts of Shri Durga Prasad, but all in vain.

3. When the matter was taken up at the first call, proxy counsel for the petitioner along with the petitioner were present. On a query raised by the court, the petitioner informed the court that the petition was filed by him on behalf of his sister. Petitioner also disclosed that he is a retired Income Tax Officer. Respondents No.4 and 5 are present in court. Ms.Gomti Devi, sister of the petitioner is also present in court. The sister of the petitioner on whose behalf this petition is stated to have been filed states that she has strained relations with the petitioner who is her brother and she has not authorised her brother to file the present petition and further she is residing in the same property as the petitioner on the first floor in her own right. She also submits that she is working as a Vice Principal in a government school. Ms.Gomti Devi further submits that she was married to Shri Durga Prasad in the year 1984 and out of their wedlock, three daughters were born and, on account of differences and disputes with her husband, an FIR was lodged and thereafter parties amicably separated from each other in the year 1993. Since then, she is not in touch with her husband and, further she submits that she has no dispute or differences with respondents No.4 and 5. She submits that this petition is misconceived and has been filed with ulterior motive by the petitioner. Respondents No.4 and 5 further endorse the statement made by the sister of the petitioner, who are also present in court. Sister of the petitioner has submitted that the petitioner has been harassing her.

4. We are informed by the learned counsel for the petitioner that this matter was marked to him by the Legal Services Authority. We notice that the petition is devoid of any dates as to when the matrimonial dispute between the petitioners sister and her husband had taken place, when the matter was amicably resolved, when the respondents No.4 and 5 harassed his sister and when she has lodged a complaint and since when the husband of the petitioners sister is missing. This, in our view, is a clever attempt to mislead this court to issue notice in such a matter.

5. We are also surprised that when the person, whose husband is missing, his children or his brother and sister are not concerned about his whereabouts, what prompted the petitioner to file such a frivolous petition.

6. In the petition, the petitioner has also made false allegations against the respondents No.4 and 5. He has also made false statement that he has been running from pillar to post to find the whereabouts of Durga Prasad and visited local police station, but could not find the whereabouts of his brother-in-law Shri Durga Prasad. The date since when Durga Prasad is missing has also not been mentioned.

7. We are informed that the petitioner is a retired Income Tax Officer and, thus it cannot be said that he is an illiterate person.

8. It seems that the petitioner was only shedding crocodile tears and with some other ulterior motive.

9. We are also pained to notice that the petitioner had approached the Delhi High Court Legal Aid Society and had sought legal aid to file the present petition. Article 39A of the Constitution of India imposes a constitutional obligation and responsibility upon all States to provide equal and free aid to the poor. In pursuance of the Directive Principles of the State Policy of the Constitution, the Legal Services Authority Act, 1987 was drafted with a view to constitute legal Services Authority at National, State and District levels to provide free and competent legal services to the weaker sections of the society. We find that by filing the present petition the petitioner had defeated the very object for which legal aid is to be provided. The petitioner failed to disclose that either he was authorized

or instructed by his sister to file the present petition. Petitioners sister, who is present in court has categorically stated that she never authorized the petitioner to file any such petition and in fact she has strained relations with him. It has not been disputed before us that the husband of the petitioner has been separated in the year 1993, which fact was not disclosed either in the petition or orally when the matter was listed. The petition is a gross abuse of process of the Court. We refrain ourselves from taking any action against the petitioner for making false statement in the present petition, but we deem it fit and appropriate to impose costs of Rs.25,000/- on the petitioner which will be deposited with the Delhi High Court Legal Services Authority, so that in future such litigants are discouraged not only from filing frivolous petitions, but taking legal aid, which is to be provided to deserving persons. Accordingly, the writ petition is dismissed. G.S.SISTANI, J
G.P. MITTAL, J SEPTEMBER 17 2013 pst/ssn

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