

Court No. - 45

Case :- CRIMINAL MISC REVIEW APPLICATION No. - 4 of 2025

Applicant :- High Court Of Judicature At Allahabad Through Its Registrar General

Opposite Party :- Manoj Kumar Gupta And 2 Others

Counsel for Applicant :- Ashish Mishra

Counsel for Opposite Party :- Mukesh Kumar Singh

Hon'ble Salil Kumar Rai,J.

Hon'ble Sandeep Jain,J.

The delay in filing review application has been satisfactorily explained in the affidavit filed in support of the delay condonation application.

Delay in filing review application is condoned.

Accordingly delay condonation application is allowed.

Heard Shri Sameer Sharma, the Senior Advocate assisted by Shri Ashish Mishra, Advocate representing the High Court of Judicature at Allahabad.

The present review application has been filed for review of the judgment and order dated 21.5.2024 passed in Criminal Misc.Writ Petition No.13460 of 2023.

Though the petition has been filed under Chapter XVIII Rule 1 of the Allahabad High Court Rules 1952 but the Court has entertained this petition as this Court has the power under Article 215 read with Article 226 of the Constitution to review its order passed under Article 226 of the Constitution of India.

The judgment and order dated 21.5.2024 was passed by this Court in Criminal Misc.Writ Petition No.13460 of 2023 after it had come to the notice of this Court that a Judicial Officer posted as Chief Judicial Magistrate in District Banda had misused his position by getting a First Information Report registered against certain officers of the electricity department and had also pressurized the Investigating Officer in the case to make arrest of the officers named in the First Information Report.

The relevant portions of the judgment & order dated 21.5.2024 which has caused the filing of the present review

application have been incorporated in Paragraph Nos. 26 to 30. Paragraph Nos.26 to 30 of the aforesaid order are reproduced below:

"26. Taking into account the prima facie findings and the material collected by the S.I.T., this Court is of the considered opinion that the present F.I.R. is driven by malafides and in the colourable exercise of power vested in respondent no.4 and thus we have got no hesitation to quash the F.I.R. exercising the extra ordinary powers of this Court under Article 226 of the Constitution of India.

27. At the very outset of the judgment, we have mentioned in Preface about the character, nature, conduct of a Judge, his position in the society, expectations of public at large from a Judge, his own public and private image and reputation and more importantly his own basic character which should be aboveboard having see through integrity and impeccable and spotless judicial character. The office of a Judge is full of responsibility as he is supposed to perform a divine job, but if we start comparing with the facts of the present case, we have got no hesitation to say that the conduct and character of Respondent No.4 Dr. Bhagwan Das Gupta is well short of those essential and basic characters, which mentioned above, rather unbecoming of a Judge. A judicial officer (Respondent no.4), as mentioned above, just to harass the petitioners who in discharging of their official duties were doing a government job entrusted to them, is proceeding to initiate a criminal case, so that the petitioners may kneel down before him and start dancing on his tune. If this is the standard of a Judge, then fate and future of subordinate judiciary is pitch dark and rudderless. He cannot be permitted to enjoy his position as C.J.M. and behave and act as an ordinary litigant. His own interest, it seems, is of the paramount consideration, for which he can stoop down to any level. This Court, as mentioned above, has deprecated and reprehended his conduct in the strongest term and is in the complete disagreement with the action taken by Respondent no.4 against the petitioners.

Such type of conduct shall not be repeated in future by any of the judicial officer, except in the matter of grave and severe nature like murder, suicide, rape or other sexual offences, dowry death, decoity and in rest of the remaining cases, if any, judicial officer or Judge wants to become the first informant in his personal capacity in any F.I.R., he must take his concerned District Judge into confidence and after having the assent from the District Judge, he can become an informant of any F.I.R.

28. Taking into account the totality of circumstances, the impugned F.I.R. so lodged by Respondent No.4 Dr. Bhagwan Das Gupta dated 27.7.2023 as Case Crime No.605 of 2023, u/s 406, 409, 419, 420, 464, 467, 468, 471, 386 I.P.C., Police Station-Kotwali, District Banda, is hereby Quashed. The instant Writ Petition stands ALLOWED.

29. Let this judgment and order be circulated through the Registrar General of this Court to all sessions divisions of the State of U.P., apprising the District Judges and Judicial Officers not to permit any F.I.R. by a Judge/Judicial Officer, in their personal capacity to subserve their personal interest, except the cases of serious and heinous in nature viz; murder, dowry deaths, sexual offences/rape or dacoity.

30. Besides this, Registrar General of this Court is directed to keep the copy of this judgment in the dossier/service record of Dr. Bhagwan Das Gupta, C.J.M., Banda, Respondent no.4."

Several grounds have been raised in the review application for review of the judgment and order but during the course of argument, the counsel for the review applicant only argued for withdrawal of the observations made in Paragraph No.29

of the judgment & order dated 21.5.2024 because the same was contrary to the observations made in the second part of Paragraph No.27. It was argued that the observations made in Paragraph No.29 of the judgment restrained the Judicial Officers from getting any First Information Report registered in their personal capacity for any offence even committed against them or their family members and the said restrictions would violate the rights of the Judicial Officers under Article 21 of the Constitution.

We agree with the contentions of the counsel for the review applicant.

There is an apparent contradiction between the observations made in the second part of Paragraph No.27 and the observations made in Paragraph No. 29 of the judgment & order dated 21.5.2024.

In view of the aforesaid, the observations made in Paragraph No.29 of the judgement & order dated 21.5.2024 so far as they direct the Registrar General of the High Court to circulate all sessions divisions of the State of U.P., apprising the District Judges and Judicial Officers not to permit any F.I.R. by a Judge/Judicial Officer, in their personal capacity to subserve their personal interest, except the cases of serious and heinous in nature is hereby recalled and modified as follows:-

The Registrar General shall circulate the judgment & order dated 21.5.2024 passed by this Court in Criminal Misc.Writ Petition No.13460 of 2023 to all sessions divisions of the State of U.P., apprising the District Judges and Judicial Officers not to permit any registration of First Information Report by any judicial officers except in the matter of grave and severe nature like murder, suicide, rape or other sexual offences, dowry death, dacoity and in rest of the remaining cases, if any, judicial officer or Judge wants to become the first informant in his personal capacity in any F.I.R., he must take his concerned District Judge into confidence and after having the assent from the District Judge, he can become an informant of any F.I.R.

With the aforesaid observations and directions, the review application is **allowed**.

Order Date :- 14.7.2025/IB