



2025:AHC:200208

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 482 No. - 12981 of 2018

Yogesh Kumar Bhentwal

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Shashank Maurya
Counsel for Opposite Party(s)	:	G.A., Manvendra Nath Singh

Court No. - 85

HON'BLE JAI PRAKASH TIWARI, J.

1. List revised. None is present on behalf of O.P. No.2.
2. Learned counsel for the applicant and learned AGA for the State are present.
3. The instant application has been moved by applicant with a prayer to quash the entire proceeding as well as summoning order dated 20.5.2017 passed by Additional Chief Judicial Magistrate, Court No.2 in Complaint Case No. 1348 of 2017 (Mahavir Singh vs. Yogesh Kumar Bhentwal) under Section 420 IPC, Police Station-Kavinagar, District-Ghaziabad pending in the court of Additional Chief Judicial Magistrate, Court No.2, Ghaziabad.
4. Learned counsel for the applicant submitted that proceeding of the present case arose on the complaint dated 27.8.2012 filed by O.P. No.2 against the applicant under Section 35 Advocates Act, 1961 alleging therein that he has committed fraud by taking amount of Rs. 6,36,000/- as fees assuring the O.P. No.2 that the order would be in his favour. It is next submitted that vide resolution no. 2031/2012 the Bar Council of U.P., Allahabad referred the matter to the disciplinary committee, the committee took the cognizance on 22.4.2013. The disciplinary committee passed the ex-parte order dated 7.2.2014, whereby the complaint moved by O.P. No.2 was allowed and applicant was awarded a punishment of suspension for five years and debarred from practicing before the court of law in India. It is next submitted that being aggrieved with the ex-parte order, applicant moved a recall application dated 9.5.2014. The disciplinary committee after hearing both the parties, dismissed the complaint of O.P. No.2 due to lack of necessary evidence vide order dated 9.10.2014.
5. Learned counsel for the applicant further submits that after dismissal of the complaint by the disciplinary committee, O.P. No.2 filed a complaint

dated 17.6.2014 before the court of learned C.J.M., Ghaziabad, which was registered as Complaint Case No. 2097 of 2014, later on it was numbered as 5592 of 2014, now it has been numbered as 1348 of 2017 (Mahavir Singh vs. Yogendra Kumar Bhentwal) under Section 420 IPC, P.S.-Kavinagar, District-Ghaziabad.

6. Statements of O.P. No.2 and Sohan Pal Singh S/o Late Hanshraj Singh were recorded under Sections 200 and 202 Cr.P.C. respectively before the learned Magistrate. Essential ingredients to constitute the offence are lacking. The present prosecution has been instituted with a malafide intention, in spite of that learned Magistrate summoned the applicant vide order dated 20.5.2017. It is next submitted that applicant is an Advocate of Tehsil court and several times he has been elected as Secretary of Tehsil Bar Association and he raised objection against the corrupt employees and officers of concerned Tehsil court, therefore, on the behest of the corrupt employees and officers of the concerned Tehsil court, O.P. No.2 initiated the criminal proceeding against the applicant. The present case is civil in nature. Therefore, criminal proceedings under the facts and circumstances of the case is nothing but abuse of the process of the Court. He prays that the summoning order and entire criminal proceedings of the subject case be quashed.

7. Per contra, learned AGA has opposed the prayer with the contention that there is no illegality or perversity in the summoning order dated 20.5.2017 and the same has been passed well within the purview of law after considering the statements of O.P. No.2 and other witnesses. It is further contended that there is material evidence on record to proceed with the trial.

8. I have considered the submissions made by the learned counsel for the applicants as well as learned A.G.A. for the state and have gone through the entire record.

9. From perusal of the record, it is apparent that in a complaint moved by O.P. No.2 initially applicant was found guilty in the inquiry made by disciplinary committee of Bar Counsel of U.P. but on recall application moved by applicant, the complaint moved by O.P. No.2. was rejected and applicant was acquitted by disciplinary committee. Thereafter, O.P. No.2 moved a complaint before the court concerned and on his complaint, court concerned summoned the applicant to face the trial.

10. It is a settled principle of law that an acquittal in a disciplinary proceeding is not automatically a ground to quash a criminal proceeding. Criminal proceedings and disciplinary proceedings are distinct and can run simultaneously as they have different objectives, procedures, and standards of proof. A disciplinary proceeding under the Advocates Act is quasi-criminal in nature and aimed at maintaining the dignity and ethics of the legal profession. A criminal proceeding can be quashed by the High Court exercising its inherent power under Section 482 Cr.P.C. (and

Section 528 BNSS, where applicable) in specific and rare circumstances, such as where the allegations in the complaint do not disclose any cognizable offense or to prevent the abuse of the process of the court. Therefore, an acquittal in a Bar Council disciplinary matter is not, by itself, one of the established grounds for quashing a legitimate criminal case.

11. As is evident, all the submissions made at the bar relate to the disputed questions of fact, which cannot be adjudicated upon by this Court under Section 482 Cr.P.C, as well as the submission that it is a case of civil in nature, cannot be a ground to quash the entire proceedings of the subject case. At this stage, only *prima facie* case is to be seen.

12. Moreover, the facts as alleged cannot be said that, *prima facie*, no offence is made out against the applicant. It is only after the evidence and trial, it can be seen as to whether the offence, as alleged, has been committed or not. Hence, prayer made in the application is refused.

13. Accordingly, the present application lacks merit and is hereby **dismissed**.

(Jai Prakash Tiwari,J.)

November 12, 2025

KK Patel