

In the Hon'ble High Court of Judicature at Allahabad,
Lucknow Bench, Lucknow
Neutral Citation No. - 2025:AHC-LKO:31387
A.F.R.

Court No. - 15

Case :- CRIMINAL MISC. WRIT PETITION No. - 4503 of 2025

Petitioner :- Brahma Prakash Singh

Respondent :- State Of U.P. Thru. Prin. Secy. Home Lko. And 2
Others

Counsel for Petitioner :- Raj Vikram Singh, Snajay Tripathi

Counsel for Respondent :- G.A., Gaurav Mehrotra, Rohit Tripathi

Hon'ble Subhash Vidyarthi J.

1. Heard Sri Raj Vikram Singh, the learned counsel for the petitioner, Sri Anurag Verma, the learned AGA-I for the State, Sri Kuldeep Srivastava, the learned counsel for the respondent no. 2 - Directorate of Enforcement, Sri Shishir Jain, the learned counsel for the respondent no. 3 - Hon'ble High Court of Judicature at Allahabad through the Registrar General, and perused the records.
2. By means of the instant Writ Petition filed under Article 226 of the Constitution of India, the petitioner has challenged validity of an order dated 11.04.2025 passed by the Special Judge, PMLA/Sessions Judge, Lucknow in Criminal Misc. Case No. 4665 of 2024, whereby an application filed by the petitioner under Section 448 of BNSS for transfer of Complaint Case No. 30/2018 titled Enforcement Directorate v. Brahma Prakash Singh, under Section 3/4 of Prevention of Money Laundering Act, 2002 from the Court of Special Judge, CBI (West)/Special Court PMLA to another Court, has been rejected.
3. Briefly stated, facts of the case are that while the petitioner was working as Managing Director in LACFEDD, he was convicted and sentenced to undergo 10 years' imprisonment for committing offences under Sections 409, 420, 467, 468, 471, 120-B IPC and Section 7 Prevention of Corruption Act by means of a judgment and order dated 12.02.2015 passed by the Special Judge, Prevention of Corruption Act, Lucknow in Case No. 4/2012. The applicant has filed Criminal

Appeal No. 203 of 2015 before this Court and he has been granted bail by means of an order dated 21.05.2015.

4. On 23.01.2018, the Directorate of Enforcement filed Complaint Case No. 30/2018, under Section 3/4 of the Prevention of Money Laundering Act, 2002 against the petitioner. On 23.12.2024, the petitioner filed an application under Section 448 of BNSS for transfer of the complaint from the Court of Special Judge, CBI (West)/Special Judge, E.D. inter alia stating that the Presiding Officer of the Court has demanded illegal gratification of Rs. 1 crore from the counsel for the petitioner. In para 14 of the application he stated that on 17.09.2024, after recording the statement under Section 313 Cr.P.C., when the Presiding Officer of the Court was alone on the dais, he demanded illegal gratification of Rs. 1 crore for acquittal of the accused and release of the confiscated property but the counsel for the petitioner declined to pay illegal gratification and he stated that he would argue the case on its merit. On 12.12.2024 the petitioner moved a complaint in this regard to the Hon'ble Chief Justice of this Court.
5. Apparently, no action has been taken till date on the aforesaid complaint sent by the petitioner to Hon'ble Chief Justice presumably because the Hon'ble Chief Justice did not find any substance in the allegations levelled in the complaint.
6. The petitioner further stated in the transfer application that his application under Section 311 Cr.P.C. for calling the Investigating Officer/ complainant/ Prosecution Witness No. 5 filed on 17.09.2024, was rejected by means of an order dated 17.09.2024, without considering judgments cited by the learned counsel for the petitioner.
7. On 23.09.2024, the petitioner filed second application under Section 311 Cr.P.C., which too was rejected by means of an order dated 30.09.2024 and as many as 13 judgments relied upon by the learned counsel for the petitioner were not referred to by the trial Court. The petitioner thereafter filed Contempt Application No. 4043 of 2024 before this Court for willful disobedience of judgments of the Hon'ble Supreme Court and of this Court by the trial Court. However, the

learned counsel for the petitioner himself sought adjournment of the contempt application on 04.10.2025.

8. The petitioner had challenged the order dated 23.09.2024 passed by the trial Court by filing an application under Section 482 Cr.P.C. No. 9166 of 2024 before this Court but no interim order was passed in that application.
9. On 11.11.2024, the petitioner filed an application under Section 59(2) (c) of PMLA and Section 161 read with Sections 16 & 145 of the Evidence Act and the petitioner relied upon numerous precedents in support of the application. This application was rejected by the trial Court by means of an order dated 09.12.2024 stating that the petitioner was adopting dilatory tactics and the trial Court closed the petitioner's opportunity to lead defence evidence and the matter was fixed for 13.12.2024 for hearing submissions. It was thereafter, that the petitioner sent a complaint to the Hon'ble Chief Justice on 12.12.2024.
10. The learned Session Judge has rejected the transfer application by means of the impugned order dated 11.04.2025. It is recorded in the impugned order dated 11.04.2025 that the learned Session Judge had called for comments of the Presiding Officer, who stated that the application under Section 311 Cr.P.C. was not pressed when his predecessor was presiding the Court. The presiding officer of the Court has categorically refuted the allegation of demand of bribe in open Court and he further stated that when the Court is in session, the staff of the Court as well as the public prosecutor remain present there. The presiding officer has stated that the petitioner and his Counsel want to mount pressure on the Court so that they can prolong the trial for they use loud noises in the Court room.
11. The learned Session Judge has observed that the petitioner has leveled allegations before this High Court also in para 27 of the application. The learned Session Judge further observed that there is nothing on record to substantiate the allegations leveled against the presiding officer. So far as the contention of the petitioner that the application under Section 311 Cr.P.C. and Section 59(2)(c) of

PMLA have been wrongly rejected, the petitioner can avail remedy against the judicial orders passed by the trial Court. The petitioner has already challenged the order dated 23.09.2024 rejecting his application under Section 311 of the Cr.P.C. by filing an application under Section 482 Cr.P.C. No. 9166 of 2024 before this Court. The allegations made in the transfer application are vague and baseless and the same do not make out any ground for transfer of the case. Accordingly, the Session Judge rejected the transfer application.

12. The learned counsel for the petitioner has submitted before this Court that the Presiding Officer of the Court had demanded bribe for him in open Court on 17.09.2024. He has submitted that he himself is representing the petitioner before the trial Court and the bribe money was demanded from him. When the Court put a question as to when did the learned counsel for the petitioner make a complaint in this regard for the first time, he stated that the complaint was made for the first time after about a month on 12.12.2024 because the learned counsel for the petitioner had taken the demand of bribe money lightly as he has to appear before the Courts day in and day out and he wanted to avoid any conflict with any judicial officer. It was only when several judicial orders were passed against the petitioner, that the learned counsel for the petitioner thought it fit to submit a complaint against the Presiding Officer and file an application seeking transfer of case from that Court. The period between 17.09.2024 and 12.12.2024, which the learned counsel for the petitioner states to be about a month, is in fact about three months.
13. The Presiding Officer has rightly stated in the comments sent to the Session Judge in response to the transfer application that whenever a judge is in session, at least the reader of the Court, other Court staff and the public prosecutor are present inside the Court room. No reasonable person of ordinary prudence would believe that at the time of hearing of the application under Section 311 Cr.P.C., only the Presiding Officer and the counsel for the petitioner were present in the Court and no other person was present in the Court room and that the

Presiding Officer demanded Rs. 1 crore from the learned counsel for the petitioner towards bribe.

14. The petitioner did not move any application for transfer of the case or any complaint regarding demand of bribe money till several judicial orders were passed against him. It was only after he could not get a stay order in proceedings instituted before this Court challenging the order of the trial Court, that he chose to prefer an application seeking transfer of the case from the Court which had passed orders against the petitioner.
15. Apparently, the transfer application has been devised to avoid facing trial before the Court, which has passed two judicial orders against the petitioner and the challenge to one of the orders has remained unsuccessful before this Court as no interim order has been passed by this Court till date.
16. The averments made in para 27 of the transfer application referred to in the order under challenge are relevant to be looked at, which are being reproduced below: -

“27. That on 12.11.2024 the case under section 482 was again listed before the Court no. 11 presided by the Hon’ble Justice Rajesh Singh Chauhan who heard the matter more than one hour in open room (which may be found in CC T.V. camera of the Hon’ble High Court) and while he did not find any ground to dismiss the application/petition as the petitioner is strong on merit he declined to dispose the petition and in spite of the final order or interim order, making the petition infructuous deliberately Hon’ble Mr. Rajesh Singh Chauhan (J) passed the order to proceed the trial as there is no interim order. He passed the order that “Heard Sri Raj Vikram Singh, learned counsel for the applicant and Sri Kuldeep Srivastava, learned counsel for the E.D. As prayed, list in the week commencing 02.12.2024 to prepare the case. It is made clear that no interim order has been granted, therefore, the learned trial Court may proceed further.”. The true copy of the order dated 12.11.2024 is annexed as ANNEXURE-7 to the aforesaid annexed complaint.”

17. In **State of Maharashtra v. Ramdas Shrinivas Nayak**, (1982) 2 SCC 463, the Hon’ble Supreme Court held that: -

“4. ...We are afraid that we cannot launch into an enquiry as to what transpired in the High Court. It is simply not done. Public policy bars us. Judicial decorum restrains us. Matters of judicial record are unquestionable. They are not open to doubt. Judges

cannot be dragged into the arena. "Judgments cannot be treated as mere counters in the game of litigation." [Per Lord Atkinson in Somasundaram Chetty v. Subramanian Chetty, AIR 1926 PC 136 : 99 IC 742] We are bound to accept the statement of the Judges recorded in their judgment, as to what transpired in court. We cannot allow the statement of the Judges to be contradicted by statements at the Bar or by affidavit and other evidence. If the Judges say in their judgment that something was done, said or admitted before them, that has to be the last word on the subject. The principle is well-settled that statements of fact as to what transpired at the hearing, recorded in the judgment of the court, are conclusive of the facts so stated and no one can contradict such statements by affidavit or other evidence. If a party thinks that the happenings in court have been wrongly recorded in a judgment, it is incumbent upon the party, while the matter is still fresh in the minds of the Judges, to call the attention of the very Judges who have made the record to the fact that the statement made with regard to his conduct was a statement that had been made in error. [Per Lord Buckmaster in Madhu Sudan Chowdhri v. Chandrabati Chowdhrai, AIR 1917 PC 30] That is the only way to have the record corrected. If no such step is taken, the matter must necessarily end there. Of course a party may resile and an appellate court may permit him in rare and appropriate cases to resile from a concession on the ground that the concession was made on a wrong appreciation of the law and had led to gross injustice; but, he may not call in question the very fact of making the concession as recorded in the judgment."

18. The petitioner has leveled allegations against an Hon'ble Judge of this Court that when he did not find any ground to dismiss the application under Section 482 No. 9166 of 2024 as the petition is strong on merit, he declined to pass the final order or interim order for making the petition infructuous deliberately. However, the order dated 12.11.2024 passed in the aforesaid petition reads as follows: -

"Heard Sri Raj Vikram Singh, learned counsel for the applicant and Sri Kuldeep Srivastava, learned counsel for the E.D. As prayed, list in the week commencing 02.12.2024 to prepare the case.

It is made clear that no interim order has been granted, therefore, the learned trial court may proceed further."

19. The narration made by the Court in the order dated 12.11.2024 that the learned Counsel for the petitioner had himself prayed for adjournment to enable him to prepare the matter, has to be presumed

to be correct in view of the well settled principle of law reiterated by the Hon'ble Supreme Court in **Ramdas Shrinivas Nayak** (Supra).

20. The allegation leveled in para 27 of the transfer application that when a coordinate Bench of this Court did not find any ground to dismiss the application under Section 482 No. 9166 of 2024 as the petition is strong on merit, he declined to pass the final order or interim order for making the petition infructuous deliberately, is apparently false, scandalous and contemptuous.
21. The averment made in the comments submitted by the Presiding Officer of the trial Court to the Session Judge, that the petitioner and his Counsel want to mount pressure on the Court so that they can prolong the trial for they use loud noises in the Court room, is also correct, as the learned Counsel for the petitioner has persisted with this conduct and he has used loud voice in this Court also and he insisted that this Court should deal with all the judgments that had been referred by him before the trial Court in support of his applications under Section 311 Cr.P.C. and Section 59(2)(c) of PMLA and Section 161 read with Sections 16 & 145 of the Evidence Act, whereas those judgments are not relevant for examining the legality of the order rejecting the transfer application.
22. In view of the aforesaid circumstances, I am of the considered view that the transfer application has been filed on false and imaginary allegations so as to avoid facing trial before the presiding officer who has passed two orders against the petitioner. The learned Session Judge has not committed any illegality in passing the impugned order dated 11.04.2025 rejecting the transfer application filed by the petitioner and I find myself in complete agreement with the view taken by the learned Sessions Judge while rejecting passed on 11.04.2025.
23. The writ petition lacks merit and the same is *dismissed*.

(Subhash Vidyarthi J.)

Order Date: 26.05.2025

Pradeep/-