

Court No. - 29

Case: - MATTER UNDER ARTICLE 227 No. 3880 of 2025

Petitioner: - Sudha Agarwal Alias Sudha Garg

Respondent: - State of U.P. And 10 others

Counsel for Petitioner: - Dr. Sudha Garg

Counsel for Respondent: -G.A., Krishna Dutt Tiwari

Hon'ble Vinod Diwakar, J.

1. Heard the petitioner-wife in person, learned Additional Government Advocate for the State-respondents and perused the material available on record.

2. The instant petition has been filed with the prayer to direct the trial court to commence the proceedings in Case No.7782 of 2019, arising out of Case Crime No. 379 of 2004, under Sections 498A, 504, 506, 323 IPC, read with Section 3/4 of the Dowry Prohibition Act, registered at P.S. Nauchandi, District Meerut, which was subsequently transferred to Moradabad. The petitioner further seeks a direction for expeditious disposal of the proceedings and the conclusion of Complaint Case No. 4934 of 2019, which is pending before the learned Additional Civil Judge (Junior Division)/ACJM, Moradabad.

3. The brief facts of the case are as follows:

3.1 The petitioner-wife claims to have been residing at 388/5, Nehru Nagar, Garh Road, Meerut, and is employed as an Associate Professor and Head of the Department of Zoology at Hindu College, Moradabad. She further claims to have pursued her education at C.C.S. University, Meerut, where she achieved notable academic distinctions, including an M.Sc. (Gold Medal), M.Phil. (First Position), CSIR (JRF) NET, and Ph.D. The petitioner's husband holds a BAMS degree, an MD in Ayurveda, and was stated to be employed

as a resident doctor at Dev Bhommi Hospital, Haridwar, before their marriage.

3.2 The petitioner's marriage to Respondent No. 7 was solemnized on 15.01.2003, in accordance with Hindu rites and rituals. The petitioner gave birth of twin children—one son and one daughter. Soon after the marriage, the petitioner alleges that she was subjected to continuous harassment, physical abuses, and mental cruelty by her husband and other family members, all in connection with demands for additional dowry. Due to her failure to meet these unlawful dowry demands, the petitioner-wife was forcibly thrown out from her matrimonial home on 08.08.2004, leaving behind her 7-month-old daughter and the son was retained by the husband.

4. Having no other recourse, the petitioner-wife lodged an FIR on 08.10.2004 which was registered as Case Crime No. 379 of 2004, under Sections under Sections 498A, 504, 506, 323 IPC, read with Section 3/4 of the Dowry Prohibition Act, at P.S. Nauchandi, District Meerut, against her husband and other relatives. Aggrieved by the registration of the FIR, the accused persons filed Miscellaneous Writ Petition No. 8593 of 2004 before this Court, which was disposed of, on the first date of listing, by an order dated 29.10.2004. The relevant portion of the said order is extracted hereunder:

“Having regard to the facts and circumstances of the case, we finally dispose of the writ petition by directing that the petitioners shall not be arrested in Case Crime No. 379 of 2004, under Section 498-A, 323, 504, 506 IPC and Section 3/4 Dowry Prohibition Act, P.S. Nauchandi, District Meerut till the conclusion of the trial provided they pay interim compensation to the victim wife Smt. Sudha Agarwal, respondent no.3 @ Rs. 1500/- per month from today. Such interim compensation from today up to 31.10.2004 shall be deposited in the court of Chief Judicial Magistrate, Meerut by 7th November 2004 and for all subsequent months by 7th day of the following month. The wife Smt. Sudha Agarwal shall be entitled to withdraw the same.

The order for payment of interim compensation is based on the analogy of the decision of Hon'ble Supreme Court in the case of Bodhisattwa Gautam v. Subhra Chakraborty (AIR 1996 SC 922).

In case of failure in payment of interim compensation, the order staying the arrest of the petitioners shall stand vacated automatically."

5. Subsequently, after completing the investigation, the police filed a charge-sheet on 05.12.2004 against ten accused persons. The Additional Chief Judicial Magistrate, Meerut, took cognizance of the case and issued summon to the accused persons. Aggrieved by the summoning order, the accused persons filed an Application U/s 482 Cr.P.C. No. 5010 of 2005, before this Court, wherein vide order dated 31.05.2005, the proceedings, pending before the learned Additional Chief Judicial Magistrate was stayed by this Court till the next date of listing. The order dated 31.5.2005 had been passed on the first date of listing without giving an opportunity of hearing to the petitioner-wife. The relevant portion of the order dated 31.05.2005 has been quoted hereunder:

"It is submitted that the parties have entered into compromise vide annexure-2 of the affidavit.

Issue notice.

Let the compromise be sent to the lower for necessary verification within three weeks and call for the compliance report thereafter.

List thereafter in the next cause list.

Till then further proceedings in Case No. 156 of 2005, under Sections 498-A, 323, 504, 506 IPC and Section 3/4 Dowry Prohibition Act, P.S. Nauchandi District Meerut, pending in the Court of A.C.J.M. Meerut shall remain stayed against the applicants only."

6. Pursuant to the order dated 31.05.2005, the petition remained unlisted, neither having been brought forward for hearing by the accused(s) nor sought to be relisted at the instance of the accused(s). As a corollary, the proceedings before the learned trial Court stood

stayed for a period of almost five years. Subsequently, the stay earlier granted by this Court was vacated vide order dated 21.09.2010. The relevant extract of the said order is reproduced hereinbelow: :

“Passed over on the illness slip of learned counsel for the applicant.

List this case in the next cause list.

Interim order granted earlier is hereby vacated.

Court concerned be informed immediately.”

7. Thereafter, the trial court issued bailable warrants, followed by non-bailable warrants. However, upon receiving an application from the accused(s) for the cancellation of the non-bailable warrants, the court, without affording the petitioner-wife an opportunity to be heard and relying solely on the version presented by the accused(s), recalled the non-bailable warrants by recording incorrect facts in the order dated 25.07.2011, without recording any reason in support thereof.

8. Furthermore, the Application u/s 482 Cr.P.C. No. 5010 of 2025 was dismissed for want of prosecution by order dated 04.07.2019. The relevant portion of the said order has been extracted hereunder:

“Case called out in the revised list. None has appeared to press this application on behalf of applicants while Sri B.S. Srivastava holding brief of Senior Advocate Sri I.K. Chaturvedi for opposite party no.2 is present.

Order sheet reveals that on 31.5.2005 an order was passed staying the further proceeding which has been vacated on 21.9.2010. Order sheet further reveals that on illness as well as praying for time the case was adjourned on 25.10.2010 and 19.4.2019.

In view of the above, the application under Section 482 Cr.P.C. is dismissed for want of prosecution.

Communicate this order to the court concerned immediately.”

9. Meanwhile, the proceedings arising out of Case Crime No. 379 of 2004 have been transferred from Meerut to Moradabad. And since 2019, no effective proceedings have been undertaken by the trial court, even the trial has not reached to the stage of Section 230 BNSS (supply to accused of copy of police report and other documents), in last 21 years.

10. The petitioner-wife appeared in person and argued that the accused(s) are influential persons who have been obstructing the fair and timely administration of justice on multiple fake and engineered grounds. The petitioner-wife has been seeking justice for the last 21 years, yet the proceedings before the trial court have not even commenced. Initially, for a period of 15 years, the proceedings could not take place due to the stay order granted by this Court. Subsequently, the trial court showed no interest in advancing the matter. Furthermore, as per the order dated 29.10.2004, the stay on the arrest of the accused(s) was granted till the conclusion of the trial. However, the petitioner-wife contends that the accused(s) have shown a blatant disregard for the law.

10.1 The petitioner-wife has also instituted a separate Complaint Case No. 4934 of 2019, which remain pending with inordinate delay, in the proceeding before the Court of Additional Civil Judge (Junior Division)/ ACJM, Moradabad. The accused(s) have consistently submitted fictitious applications for personal exemption before the trial court to delay the proceeding, which have been allowed by the court without recording any reasons. The accused (s) have also persistently exerted pressure on the petitioner-wife to compromise and withdraw all criminal cases, and to agree to an unconditional divorce.

10.2 The petitioner-wife further submits that one of the accused(s), Shri Ramesh Agarwal (since died), was *Peshkar* of the District

Judge, Moradabad, and had misused his official position by exerting undue influence to obstruct the fair and impartial conduct of proceedings before the trial court. It is pertinent to note that his two sons, Shri Sachin Agarwal and Shri Anil Agarwal, are also employed as *Peshkars* in the District Court, Moradabad, while his daughter-in-law, Smt. Babita Agarwal, has been serving in the Consumer Court, Moradabad. Additionally, it is brought on record that the grandson of the said late Shri Ramesh Agarwal, Shri Anshul Agarwal, is a practising Advocate at the District Court, Moradabad, and has been representing the accused(s) as learned counsel in the present matter. In these circumstances, there arises a reasonable apprehension that the accused(s) may exert influence over the proceedings of the Court, thereby posing a potential risk to the integrity and impartiality of the judicial process.

10.3 Furthermore, the accused Sandeep Agarwal receives continued support from another maternal uncle, accused Balesh Agarwal, who is the proprietor of Nand Gas Agency (Hindustan Petroleum) in Moradabad and has previously served as the Nagar Adhyaksh of the ruling party. Given his political and social influence, he has been exerting pressure on the petitioner.

10.4 The petitioner-wife moved an application under Section 12 of the Protection of Women from the Domestic Violence Act, 2005, in the year 2010, which was erroneously dismissed in 2016. This highlights the undue delay of six years in deciding an application filed under the Domestic Violence Act because of the influence of the accused(s) in the District Court, she apprehends.

10.5 The petitioner-wife further submits that she is facing significant challenges in her professional life, as the charge of officiating principal has been entrusted to the teachers who are well known to the accused Sandeep Agarwal and his family, and who

hold a clear bias against the petitioner-wife. Despite her 14 years of service, the petitioner-wife was unfairly penalized through a wrongful demotion in seniority, with malicious intent to hinder her prospects of becoming the Head of the Department. However, her seniority was subsequently restored by orders of the Vice-Chancellor and the Chancellor.

10.6 In furtherance of a motivated and influenced conspiracy, the college management proceeded to suspend and terminate the petitioner-wife in 2019. Although the Division Bench of this Court quashed the entire disciplinary proceedings and reinstated the petitioner-wife with all consequential benefits, compliance with the order had to be enforced through contempt proceedings initiated against the college management and the principal.

10.7 The matter is presently under consideration before the Hon'ble Supreme Court, as the college management has challenged the orders of this Court before the Supreme Court.

10.8 Finally, given the aforesaid circumstances, the petitioner-wife contented that she has been constrained to invoke the supervisory jurisdiction of this Hon'ble Court under Article 227 of the Constitution of India, seeking appropriate directions to uphold the rule of law, secure a fair and impartial adjudication in the pending proceedings, and protect her from any form of undue influence, harassment, by the accused or other interested parties.

11. After hearing the petitioner-wife in person, this Court is persuaded by the facts on record, which clearly establish a persistent hardship endured by the petitioner-wife since the solemnization of her marriage. Notwithstanding her exemplary academic qualifications and distinguished career as an Assistant Professor, officiating Principal, and Head of Department—positions that provide her with a respectable income and enable her to maintain a

dignified standard of living—the petitioner’s matrimonial life has been severely disrupted by protracted litigation and continuous interference from her in-laws. The cumulative impact of these adversities has rendered her personal life intolerable and unsustainable. Considering these circumstances, the matter demands the immediate attention and intervention of this Court to safeguard the petitioner’s legal and constitutional rights and to ensure the administration of justice.

11.1 The petitioner was separated from her matrimonial home on 08.08.2004, under forced circumstances, following which she lodged the First Information Report (FIR) in the same year, seeking redressal for the grievances suffered. Notwithstanding the considerable lapse of more than *two decades* since the FIR was registered, it is regrettable that the trial court has failed to commence or conduct any effective proceedings in the matter. This prolonged and unexplained inaction by the trial court constitutes not only a denial of timely justice but also a serious erosion of the rule of law and a violation of the petitioner’s fundamental right to a fair and expeditious trial. Such *judicial inertia* demands the urgent intervention of this Hon’ble Court to safeguard the petitioner’s constitutional and legal rights, ensure the proper administration of justice, and prevent any further miscarriage of justice.

11.2 Upon perusal of the order dated 31.05.2005 and other orders, as extracted above, it is evident that the petitioner-wife was not afforded an opportunity of hearing on any occasion when this Court granted interim stayed the arrest of accused(s) or stayed the trial court proceedings. Furthermore, despite both petitions being listed before this Court since 2004, no effective proceeding has been taken place till the petition dismissed for want of prosecution because of non-appearance of the accused(s). The record suggests that the trial

has not progressed an inch further since filing of the charge-sheet. The accused(s) are not appearing before the trial Court taking shield of the order dated 29.10.2004, in which the accused(s) arrest has been stayed till the conclusion of the trial. As the interim order dated 29.10.2004 has been vacated by this court on 21.09.2010 with the direction to inform the trial court forthwith about the fate of order dated 29.10.2004. The trial court is at liberty to proceed with the trial in accordance with law.

11.3 The trial court record suggests that the accused(s) have filed personal exemption application consistently and failed to appear on **35 times**, thereby exacerbating the petitioner's hardship and distress.

11.4 One of the cardinal principles of criminal jurisprudence is the right to a free, fair, and expeditious trial. When this right is not upheld, litigants inevitably lose faith in the judicial process. If the trial court continues to grant exemptions to the witnesses without justifiable reason, and fails to compel their attendance, the integrity of the trial process itself may be compromised.

12. Having considered the submissions advanced by the petitioner-wife and upon careful perusal of the record, this Court is of the considered view that the conduct of the accused(s), particularly their repeated non-appearance despite multiple opportunities, has resulted in an undue delay in the progress of the trial. In view of the same, and to ensure the effective administration of justice and timely conclusion of the trial, this Court directs that:

(i) The accused persons in both the cases referred in prayer clause are directed to appear before the learned trial court on the next date fixed, and thereafter on all successive dates. In the event of their failure to appear without sufficient and justifiable cause, the trial court shall record detailed reasons while considering any application for personal exemption. Further, the court shall maintain a record in

each subsequent order indicating the number of times such personal exemption applications have been filed and the grounds mentioned therein. If the accused(s) fail to appear without valid cause, their bail bonds shall be forfeited, non-bailable warrants shall be issued for their arrest, and they shall be taken into custody and produced before the trial court to face trial without any further delay.

(ii) The learned trial court is further directed to proceed with the trial on a day-to-day basis, and/or weekly-basis by recording reasons, without granting any unnecessary adjournments to either party. The trial must be concluded expeditiously, keeping in view the prolonged pendency of the case for the past 21 years, and the fact that it has not yet reached even the stage of framing of charge.

(iii) Miscellaneous application, if any, filed by the accused(s), shall be disposed of in a time-bound manner, without wasting even a day's time.

(iv) The Joint Director (Prosecution), Moradabad, is directed to ensure that there is no delay — preferably not exceeding two days — in filing a reply to any miscellaneous application submitted by the accused(s). The prosecution shall also ensure that all prosecution witnesses are produced before the Court promptly, with an endeavour to produce all of them in a single session.

(v) The trial court shall ensure that the chief examination of prosecution witnesses is conducted on the very day of their appearance before the court. It shall further ensure that no unwarranted adjournments are granted to the accused(s) for cross-examination of the witnesses. In the event of non-appearance of the defence counsel, the trial court may engage a learned counsel from the District Legal Services Authority (DLSA) to conduct the cross-examination. It is the duty of the trial court to inform the accused(s) that in case their counsel fails to appear on the given date, the legal

assistance from panel counsel of the DLSA shall be forthwith provided to the accused (s).

(vi) The Senior Superintendent of Police (S.S.P.), Moradabad, is hereby directed to ensure prompt and effective service of summons and execution of bailable or non-bailable warrants issued by the learned trial court against any or all accused persons. The S.S.P. shall ensure that such processes are executed without delay or procedural lapse, and a compliance report to this effect shall be filed before the trial court by an officer not below the rank of Circle Officer (C.O.), who shall be personally accountable for overseeing the service and execution of the process.

(vii) The S.S.P., Moradabad, shall also ensure that the accused(s) do not attempt to extend any undue influence, threat, or coercion upon the complainant or prosecution witnesses in furtherance of any ulterior motive.

(viii) In view of the fact that one of the co-accused served as *Peshkar* to the learned District Judge, Moradabad for a considerable period, and his two sons are presently working as *Peshkars* in the same District Court, with another son of one of the accused being a practicing advocate in the District Court, Moradabad, the trial shall be conducted *in-camera* to ensure an unbiased and fair proceeding.

13. In view of the aforesaid directions, the instant writ petition stands *allowed*.

14. The Registrar (Compliance) is directed to communicate a copy of this order to the learned trial court concerned through the learned District Judge, Moradabad, and also to the Senior Superintendent of Police, Moradabad, and the Joint Director (Prosecution), Moradabad, for strict and immediate compliance.

15. It is clarified that the directions issued herein are based on the peculiar and pressing facts and circumstances discussed above and shall not be treated as a precedent in other pending matters. This court is fully conscious of the workload faced by the trial courts. However, the fact remains that the FIR in this case was lodged in the year 2004 and the charge-sheet was submitted within the same year. Yet, to date, the trial has not progressed even to the stage of framing of charges. While certain delays may be justified under exceptional circumstances, the State cannot absolve itself from the constitutional responsibility of ensuring speedy justice to litigants — a mandate consistently reiterated by the Hon’ble Supreme Court and essential to the very foundation of the rule of law.

Order Date:- 12.8.2025

A. Tripathi

(Vinod Diwakar, J.)