

Smt. Shweta Kureel vs State Of U.P. And 10 Others on 2 January, 2025

Author: Saurabh Srivastava

Bench: Saurabh Srivastava

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:699

Court No. - 79

Case :- MATTERS UNDER ARTICLE 227 No. - 15713 of 2024

Petitioner :- Smt. Shweta Kureel

Respondent :- State Of U.P. And 10 Others

Counsel for Petitioner :- Rajesh Kumar Srivastava

Counsel for Respondent :- G.A.

Hon'ble Saurabh Srivastava,J.

1. Heard Sri Rajesh Kumar Srivastava, learned counsel for the petitioner and learned A.G.A. for the State.

2. The writ petition has been filed seeking the following relief:-

"(i) set aside the impugned order dated 30.09.2024 (Annexure No. 1 to the misc. petition) passed by learned Additional District Judge, Court No. 14, Kanpur Nagar in Misc. Case No. 672 of 2023 (arising out of Criminal Revision No. 910 of 2022) as well as order dated 5.10.2019 (Annexure No. 2 to the misc. petition) passed by learned Metropolitan Magistrate, Court No. 10, Kanpur Nagar in Complaint Case No. 473 of 2019 (Smt. Shweta Kureel Vs. Sunil Kumar & others), under Section 498A, 323, 504 IPC, Police Station Kalyanpur, District Kanpur Nagar."

3. It is the case of the petitioner that Complaint Case No. 473 of 2019 (Smt. Shweta Kureel Vs. Sunil Kumar & others) has been preferred at the behest of the petitioner, after recording statement under Sections 200 and 202 Cr.P.C., order dated 05.10.2019 has been passed through which only the husband of the petitioner has been summoned in pursuance to Sections 498A, 323, 504 IPC, whereas the specific allegations were put-forward against other persons in shape of respondent nos. 3 to 11 but none of them were summoned and being aggrieved with the non-summoning of the rest of the other persons except respondent no. 2, order dated 05.10.2019 has been put under challenge before learned revisional court by way of filing criminal revision along with delay condonation application and the same has been registered as Misc. Case No. 672 of 2023 (Shweta Vs. Sunil).

4. Application under Section 5 of the Limitation Act filed on behalf of the petitioner was allowed at the cost of Rs. 1,000/- which was to be deposited on or before 13.10.2021 but due to non-communication of specific dates to the petitioner from her counsel, the cost of Rs. 1,000/- could not be deposited and the same was dismissed on 21.10.2021. The order dated 21.10.2021 was sought to be recalled by way of filing recall application but due to non-providing of the certified copy of the order dated 21.10.2021, the recall application was also dismissed vide order dated 28.04.2022.

5. Another application has been preferred at the behest of the petitioner for seeking setting aside the order dated 28.04.2022 but due to abstainment from judicial work as resolved by learned counsel of the concerned District Judgeship, the same could not be attended by any one and the same application was also dismissed on 19.04.2023.

6. The petitioner again preferred restoration application for seeking restoration of her criminal revision at original number but the same was also dismissed vide order dated 30.09.2024, which impugned the present petition.

7. Learned counsel for the petitioner submitted that at no point of time criminal revision preferred at the behest of the petitioner has ever been heard and decided on its own merits, rather, the same was decided on some technical issues on one pretext to another.

8. Learned counsel for the petitioner further submitted that as a matter of last opportunity, one specific opportunity may be extended for defending her criminal revision wherein the delay was already condoned at the cost of Rs. 1,000/- but due to non-depositing the same, which was dismissed vide order dated 21.10.2021. It is further submitted that there was contents available in the application for seeking condonation of delay for consideration of criminal revision but at the latest stage, although there was default of the petitioner which is apparent from different ordersheets but as per the propriety of law demands that once the cause of action available for seeking redressal of grievance has already been considered within time at the cost of certain amount, meaning thereby the matter requires proper adjudication by competent court.

9. Over the instruction so received by learned counsel for the petitioner submitted that his client is ready to deposit the cost as directed way back in the year 2021 so that the criminal revision preferred at the behest of the petitioner may be decided on its own merits.

10. Per contra, learned A.G.A. vehemently opposed the prayer as made in the petition and rebutted the stand taken up by the learned counsel for the petitioner. While supporting the orders which impugned the present petition, learned AGA submitted that in spite of giving several opportunities, all were failed to receive by petitioner which culminated into dismissal of all the applications preferred on behalf of the petitioner in shape of delay condonation application, recall application, review application as well as restoration application. Learned AGA also submitted that the instant petition cannot be entertained by this Court since the law is not meant for the persons who are continuously avoiding the opportunity of putting their grievances for appropriate forum but the law is strictly available for the redressal of the grievances of the persons who are awaking and complying the orders and directions of the court concerned. Learned AGA also submitted that once the delay condonation application filed by the petitioner under Section 5 of the Limitation Act has been allowed at the cost of Rs. 1,000/-, there was no ground available to the petitioner for not depositing the same.

11. After hearing the rival submissions extended by learned counsel for the parties, considering the confined prayer i.e. only for re-consideration of criminal revision preferred at the behest of the petitioner, process of issuing notices to respondents is hereby dispensed with.

12. As a matter of last opportunity, the petitioner is hereby directed to put her criminal revision which has already been dismissed at the stage of considering delay condonation application under Section 5 of the Limitation Act since cost imposed by learned court concerned has been failed to deposit at the behest of the petitioner within stipulated time as granted by learned concerned court, the implied meaning of direction for deposition of Rs. 1,000/- as cost that there are some substance available in the delay condonation application preferred at the behest of the petitioner and as such criminal revision failed by the petitioner may be treated as within time but with cost of Rs. 5,000/- which shall be deposited within a month, if the cost be deposited, learned Court of Session Judge, Kanpur Nagar is hereby directed to entertain criminal revision preferred at the behest of the petitioner and dispose of the same within six months thereafter by way of giving proper opportunity to all concerned.

13. In view of the aforementioned facts and circumstances, the order dated 30.09.2024 as well as order dated 05.10.2019 are hereby set-aside. The matter is remitted back to learned Court of Session Judge, Kanpur Nagar for compliance of the directions as made above.

14. The instant petition stands allowed accordingly.

Order Date :- 2.1.2025/#Vik/-