

(2012) 01 AHC CK 0604

Allahabad High Court

Case No: Criminal Misc. Writ Petition No. 24175 of 2011

Mohammad Shamsad

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision: Jan. 13, 2012**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 363

Hon'ble Judges: Vinay Kumar Mathur, J; Devendra Pratap Singh, J**Bench:** Division Bench**Advocate:** R.B. Singh, for the Appellant;**Final Decision:** Dismissed

Judgement

1. The following order was passed on 22.12.2011:

Heard learned counsel for the parties.

Sri Mohammad Shamsad son of Late Wali Mohammad has filed this petition for quashing of F.I.R. registered in case crime no.523 of 2011 u/s 363 I.P.C., Police Station Iglas District Ghaziabad. During argument, it transpires that earlier also another writ petition being writ petition no.18410 of 2011 had been filed by the same petitioner and the writ petition was dismissed vide order dated 29.9.2011 but this fact has not been disclosed in the present writ petition. Thus, the court summoned the file of the earlier writ petition.

From a perusal of the two, it transpires that the affidavit in both the cases has been given by the petitioner himself but yet the aforesaid fact was not disclosed.

Sri R.B. Singh, learned counsel appearing for the petitioner has stated that this fact was never informed to him by the petitioner and thus, he had no knowledge otherwise he would have mentioned it in the present writ petition.

DIG/SSP, Aligarh may cause production of the petitioner, Mohammad Shamsad son of Late Wali Mohammad resident of House No.4/122, Asif Nagar, Jamalpur, P.S. Civil Lines, District Aligarh on the next date to enable the Court to proceed further. In case, the DIG/SSP Aligarh is unable to do so, he will file his personal affidavit giving reason thereof.

Let a copy of this order be given to learned A.G.A. within twenty four hours.

List for further orders on 13.1.2012.

An affidavit of the Senior Superintendent of Police, Aligarh has been filed stating that the residence shown by the petitioner in the writ petition was sold by him to one Smt. Munisha Begum on 1.11.2011 and he was not available there and efforts are on to apprehend and some further time is required.

2. Let the petitioner may be arrested and produced before this court on or before 10.2.2012 and if, for any reason he cannot be produced, the Senior Superintendent of Police may file another affidavit explaining the reasons.

Let a copy of this order be given to the learned A.G.A. within 48 hours. List on 10.2.2012.