

HIGH COURT OF DELHI AT NEW DELHI

WP (Crl.) No. 1919/2005

Date of Decision:- May 1,2008

Dr. Ashoka Mohan Dwarkadas ... Petitioner

Through:Petitioner in person.

Versus

STATE & Others ... Respondents

Through:Ms.Mukta Gupta, Standing Counsel.

Mr. Puneet Bhalla for R-6

Mr. A.B. Pandey for R-10

CORAM:

HON'BLE MR. JUSTICE S.L. BHAYANA

1. Whether reporters of local paper may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether the judgment should be referred in the Digest?

S. L. BHAYANA, J.

This petition has been filed under Article 226 of the Constitution of India read with section 482 Cr. P.C with a prayer to direct the respondent Nos. 1 to 4 to act in accordance with law and to carry out an action in accordance with law against respondent Nos. 5 to 7 and to take appropriate action against respondent Nos. 1 to 4 and 8 for willful inaction to save the petitioner and his

family members from the harassment of the Bank officials and their associates.

2. The Status Report has been filed. The brief facts of the case are that the petitioner took a personal loan for the sum of Rs. 12,50,000/- from the ICICI Bank and in discharge of his part of agreement he issued 36 post dated cheques of Rs. 43,638/- each. The petitioner has further stated that he did not avail the complete loan and requested the officials of ICICI Bank to return the remaining cheques but the same were not returned by the Bank officials on the pretext that the same would be returned to him on a later date. However, the Bank presented some of those cheques for encashment. The petitioner on coming to know about the same had the payment of the remaining cheques stopped upon which the Bank filed a case under section 138 N.I. Act against him. The petitioner filed a complaint case before the State Consumer Dispute Redressal Forum and after hearing the arguments the learned Forum directed that the said complaint be sent to that concerned Police Station in order that necessary action be taken in the matter. On the basis of his statement/ complaint a case under section 420/406/506 IPC was registered at P.S. Sarojini Nagar,

New Delhi, vide FIR No. 475/2005. Before registration of the above noted FIR, the petitioner filed a writ petition before this Court being CrI. Writ No. 651/2005 wherein he sought direction to the respondents for registration of the FIR against the ICICI Bank officials. The said writ petition was disposed of on the same day as it was brought to the notice of this Court that the FIR had already been registered. During the investigation it transpired that initially the petitioner agreed to take the loan of Rs.12,50,000/- and in discharge of his part of agreement he issued 36 cheques of Rs. 43,638/- each, however, later on, the loan amount was reduced to Rs.8,23,882/- and a fresh agreement was executed between the petitioner and the Bank and in discharge of his part of the agreement the petitioner issued fresh 29 cheques of Rs. 33,301/- each. It was also agreed that the cheques issued by the petitioner in terms of the earlier agreement will be returned back to the petitioner but inadvertently one of the earlier cheques was presented by the Bank for encashment but the payment of the said cheque was got stopped by the petitioner and thereafter the Bank filed a case under section 138 N.I. Act and during the course of the hearing of the said case it was transpired that the said cheque was

inadvertently presented for encashment and as such the said case was withdrawn by the Bank and that the Bank has also tendered unconditional apology but despite that the petitioner instituted the aforesaid complaint before the Consumer Dispute Redressal Forum.

3. Learned counsel for the State submits that in this case investigation has already been completed and the charge sheet has been filed.

4. Learned counsel for the State submits that since the Police has already taken action against the erring officials of ICICI Bank, hence, no cause of action survives in the matter and the writ petition may be dismissed as having become infructuous.

5. Keeping in view the above facts and circumstances, I am of the considered opinion that nothing survives in this writ petition. Accordingly the same is hereby dismissed as infructuous.

S. L. BHAYANA, J.

May 1 , 2008

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