

Court No. - 87

Case :- APPLICATION U/S 482 No. - 20777 of 2023

Applicant :- Ram Niwas Vishwakarma And Another

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Lal Mani Singh, Raghuvir Sharan Singh

Counsel for Opposite Party :- G.A., Padmaker Pandey, Ramesh Kumar Shukla

Hon'ble Neeraj Tiwari, J.

1. Heard Sri Jai Pratap Singh, Advocate holding brief of Sri Lal Mani Singh, learned counsel for the applicants, learned AGA, Sri Padmaker Pandey, learned counsel for the opposite party no.2 and Ms. Smriti Gupta, Advocate holding brief of Sri Ramesh Kumar Shukla, learned counsel for Central Bank of India.

2. Case was heard on 3.10.2023, Court has passed the following order:-

"1. Short counter affidavit filed today be taken on record.

2. Heard learned counsel for applicants, learned A.G.A. for State, Sri Padmaker Pandey, learned counsel for opposite party No. 2 and Sri Ramesh Kumar Shukla (A/R1823/2013), learned counsel for Central Bank of India.

3. In compliance of order dated 21.09.2023, learned counsel for applicants has produced a Demand Draft No. "167224" dated 30.09.2023 of Central Bank of India amounting to Rs. 1,55,328/- which has been handed over to Sri Padmaker Pandey, learned counsel for opposite party No. 2 before the Court.

4. Sri Shukla, learned counsel for Bank submitted that applicants have never given 26 cheques to the Bank, which could not be disputed by learned counsel for applicants.

5. Sri Padmaker Pandey, learned counsel for opposite party No. 2 submitted that certain more amount is due.

6. Learned counsel for applicants prays for and is granted one week time to settle the amount between the parties, for which, learned counsel for opposite party No. 2 has no objection.

7. Put up this case as fresh on 12.10.2023 as fresh showing the name of Sri Ramesh Kumar Shukla as counsel for opposite party-Bank.

8. Till then, interim order granted earlier shall remain continue."

Again, case was heard on 12.10.2023, Court has passed the following order:-

"1. Heard learned counsel for applicants, learned A.G.A. for State, Sri Padmaker Pandey, learned counsel for opposite party No. 2 and Ms. Smriti Gupta, Advocate holding brief of Sri Ramesh Kumar Shukla, learned counsel for Central Bank of India.

2. Learned counsel for applicants submitted that parties have entered into compromise and now applicants are ready to pay remaining amount of Rs. 1,34,000/- out of which, he is having Demand Draft of Rs. 75,000/- and remaining amount of Rs. 59,000/- shall be paid within three days, therefore, proceeding may be quashed. He has produced a Demand Draft No. "167229" dated 11.10.2023 of Central Bank of India amounting to Rs. 75,000/-, which has been handed over to Sri Padmaker Pandey, learned counsel for opposite party No. 2 before the Court.

3. Learned counsel for applicants is directed to produce remaining amount of Rs. 59,000/- before the Court on the next date fixed.

4. Put up this case as fresh on 17.10.2023 as fresh.

5. Till then, interim order granted earlier shall remain continue."

3. In compliance of order of this Court dated 12.10.2023, Sri Jai Pratap Singh, Advocate holding brief of Sri Lal Mani Singh, learned counsel for the applicants has produced the draft no.16723 of Rs.59,000/- before this Court in favour of opposite party no.2, which is handed over to Sri Padmaker Pandey, learned counsel for the opposite party no.2.

4. Learned counsel for the applicant submitted that nothing remains to be decided in the present application, therefore, criminal proceedings may be quashed and further opposite no.2 may not use 26 cheques (Bearing Cheque Nos. 015447, 015448, 015449, 015450, 015451, 015452, 015453, 015454, 015455, 015456, 015457, 015458, 015459, 015460, 015461, 015462, 640001, 640002, 640003, 640004, 640005, 640006, 640007, 640008, 640009, are 640010) of Oriental Bank of Commerce (after merger it has become Punjab National Bank) as given by him for which Sri Padmaker Pandey, learned counsel for the opposite party no.2 has no objection.

5. Sri Padmaker Pandey, learned counsel for the opposite party no.2 has not disputed the aforesaid facts. He further submitted that in case this Court is pleased to quash the criminal proceeding pending against the applicants, he has no objection.

6. In view of above, the applicants and respondent no. 2 do not

want to pursue the case any further as stated by them. The matter has been mutually settled between the parties, therefore, no useful purpose would be served in proceeding with the matter further.

7. Thus in view of the well settled principle of law as laid down by the Hon'ble Apex Court in the matters of **Krishnappa & Ors. vs. State of Karnataka; 2021 0 Supreme(SC) 529, Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and Ors. vs. State of Gujarat and another; 2017 9 SCC 641, B.S. Joshi Vs. State of Haryana; 2003(4) SCC 675, Nikhil Merchant Vs. Central Burea of Investigation and another; (2008) 9 Supreme Court Cases 677, Gian Singh Vs. Stated of Punjab; (2012) 10 SCC 303 and Narinder Singh & others Vs. State of Punjab and another; (2014) Supreme Today 642**, the proceedings of cognizance order dated 6.3.2023 as well as proceeding of Case No. 64848 of 2023, arising out of Case Crime No. 142 of 2022, under Sections 420, 406, 506 IPC, P.S.- Fazalganj, District Kanpur Nagar are hereby quashed.

8. Further, opposite party nos. 2 & 3 are directed to not use the aforesaid cheques as given by the applicant. In case, above number of cheques are used by opposite party nos. 2 & 3, no criminal proceeding under Section 138 of N.I. Act shall be permitted in case cheques are not cleared for any reason.

9. The present application is, accordingly **allowed**. No order as to costs.

Order Date :- 3.11.2023

Junaid