

Court No. - 44

Case :- MATTERS UNDER ARTICLE 227 No. - 8623 of 2023

Petitioner :- Avanish Kumar Gaur And Another

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Krishna Kant Dubey, Santosh Kumar Dubey

Counsel for Respondent :- G.A., Dheeraj Kumar Singh

Hon'ble Manoj Bajaj, J.

Petitioners (accused) have filed this petition under Article 227 Constitution of India to challenge the order dated 24.7.2023 passed by Sessions Judge, Ghaziabad in Criminal Revision No. 462 of 2023, whereby the order dated 23.5.2023 passed by trial court in Complaint Case No. 1181 of 2022, titled *Preeti Vs. Anvish Kumar and others*, under Section 138 Negotiable Instruments Act, 1881 directing them to deposit 20% of the cheque amount to the complainant-respondent no.2 as interim compensation, has been upheld.

Learned counsel for petitioners has submitted that respondent no.2 (complainant) brought a complaint under Section 138 Negotiable Instruments Act, 1881 for alleged dishonor of cheques bearing No. 082884 and 072948 amounting to Rs. 2,50,000/- and Rs.1,00,000/- respectively, and during the pendency of the case, the trial court passed the order dated 23.5.2023 under Section 143-A Negotiable Instruments Act, 1881 directing the petitioners to deposit 20% of the cheque(s) amount to the complainant. According to him, aggrieved against the order dated 23.5.2023 passed by the trial court, a criminal revision was filed before the court of sessions, but the same was also dismissed vide impugned order dated 24.7.2023.

Learned counsel for petitioners has submitted that respondent

no.2-complainant has filed two complaints relating to different cheques and the trial in both the complaints are pending. It is pointed out that in other complaint bearing No. 1179 of 2022, which pertains to the cheque for a sum of Rs.8,50,000/- the similar orders directing the accused to deposit 20% of the cheque amount were passed on the same dates, but the said orders were challenged through Matter Under Article 227 No. 8690 of 2023, wherein this Hon'ble Court vide order dated 22.8.2023 modified the impugned orders and directed the petitioners to deposit 10% of the cheque amount within a period of 60 days. Learned counsel for petitioners has produced the copy of the order dated 22.8.2023 and further prayed that present petition be also decided in the similar terms.

Learned counsel appearing for respondent no.2-complainant fairly states that order dated 22.8.2023 squarely covers the issues raised in the present petition.

Considering the common stand of the learned counsel for parties, the impugned orders dated 24.7.2023 and 23.5.2023 are modified in the light of the decision dated 22.8.2023 passed in Matter Under Article 227 No. 8690 of 2023 and it is directed that the accused-petitioners shall deposit the requisite 10% of the cheque(s) amount with the complainant-respondent no.2 within a period of 60 days from today. In case the amount is not paid to the complainant-respondent no.2 within the prescribed period, the trial court shall take measures for recovery of the said amount in accordance with law.

With these observations, the petition is disposed of.

Order Date :- 17.11.2023

P.S.Parihar