

Court No. - 88

Case :- APPLICATION U/S 482 No. - 30082 of 2023

Applicant :- Sandeep Kumar Varshneya

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

Counsel for Applicant :- Uma Datta Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh,J.

1-Heard Mr. U.D. Tripathi, learned counsel for the applicant and Mr. Deepak Mishra, learned Additional Government Advocate for the State of U.P./opposite party no. 1.

2-By means of this application under Section 482 Cr.P.C., prayer has been made to quash the order dated 10.11.2022 passed by the trial court in Complaint Case No. 6797 of 2021 (*Sachin Agrawal vs. Sandeep Kumar Varshneya*), under Section 138 Negotiable Instrument Act whereby in view of Section 143A of Negotiable Instrument Act, applicant has been directed to deposit 20% of the cheque amount i.e. Rs. 78,000/- within two months and to quash the order dated 08.05.2023 passed by Additional Sessions Judge, Court No. 26, Agra in Criminal Revision No. 735 of 2022 (*Sandeep Kumar Varshneya vs. State of U.P. and other*) whereby the revision preferred by the applicant against the order dated 10.11.2022 has been dismissed.

3-Placing reliance upon the judgment of the Apex Court in the case of **Jamboo Bhandari vs. M.P. State Industrial Development Corporation Ltd. and Others**, 2023 SCC OnLine SC 1144, learned counsel for the applicant submits that both the courts below have committed legal error in directing the applicant to deposit 20% of the cheque amount, hence, the same are liable to be quashed.

4-Per-contra, learned A.G.A. vehemently opposed the submission of learned counsel for the applicant by contending that in this case impugned orders have been passed during trial of the applicant. The

judgment in the case of **Jamboo Bhandari (Supra)** relied upon by the counsel for applicant is not applicable under the facts of this case, because in that case direction for deposit of 20% amount of cheque was issued by the appellate court after conviction of the accused by the trial Court considering the provision provided under Section 148 of the N.I. Act.

5-Having heard the submissions of learned counsel for the parties and perusing the record, I find that there is no dispute that trial of the applicant is still pending. So far as judgment in the case of **Jamboo Bhandari (Supra)** relied on behalf of the applicant is concerned, there is no dispute about the proposition of law laid down by the Hon'ble Apex Court, but the same is not helpful to the applicant as the same is distinguishable on the facts of this case. It is well settled that every case turns on its own facts. Even one additional or different fact may make a big difference between the conclusion in two cases, because even a single significant detail may alter the entire aspect. The revisional court while rejecting the criminal revision of the applicant has elaborately considered the provision of Section 143A of Negotiable Instrument Act, observing that the said provision empowers the Court to proceed to award interim compensation after the necessary requirements have been fulfilled and the defence raised by the accused is not to be considered at that stage and court is not to get influenced with the defence of the accused while granting the interim compensation. The legislature has laid down the complete procedure in Section 143A of Negotiable Instrument Act itself for granting compensation. The interest of accused has also been very well protected, as in case, the accused is acquitted, the complainant is bound to return the interim compensation amount received by him with interest at the prevalent bank rate published by RBI for those financial years.

6-In view of the above, I do not find any illegality or perversity in the impugned orders dated 10.11.2022 and 08.05.2023, hence, no interference is required.

7-The relief as sought by the applicant by means of this application is here by refused.

8-The application lacks merit and is, accordingly, ***dismissed***.

Order Date :- 28.10.2023

Saurabh