

Court No. - 81

Case :- MATTERS UNDER ARTICLE 227 No. - 9598 of 2023

Petitioner :- Smt.Anju Dubey

Respondent :- State of U.P. and Another

Counsel for Petitioner :- Rakesh Kumar Tiwari

Counsel for Respondent :- G.A.

Hon'ble Mrs. Jyotsna Sharma,J.

1. Heard Sri Rakesh Kumar Tiwari, learned counsel for the petitioner and learned A.G.A. for the State.
2. This petition under article 227 has been moved challenging the impugned order dated 28.07.2023 passed by Additional Sessions Judge, Aligarh in Criminal Revision No. 164 of 2023 (Smt. Anju Dubey Vs. State of U.P. and another) as well as impugned order dated 28.03.2023 passed by Additional Judge, Aligarh in Complaint Case No. 1643 of 2023 (Smt. Anju Debey Vs. Sher Singh) under section 138 N.I. Act with a further prayer to direct the court concerned to reconsider the petitioner's complaint and summon the accused respondent no.2.
3. The contention of the petitioner in nutshell is, that she did not move any application for non-prosecution of her case, on the ground that she had already received the amount of Rs. 2,50,000/-.
4. Admittedly, the complainant filed a complaint case no. 1643 of 2023 under section 138 N.I. Act and that it was pending at pre summoning stage. The learned trial court, on the basis of an application moved by the complainant which bore her signature, took a view that the complainant is no more interested in prosecuting her case and therefore, dismissed the same. The order of the trial court was affirmed in revision.
5. The contention of the complainant/petitioner is that an application with her forged signature was filed in the complaint case. In my opinion, if the complainant did not move any application and that her signatures were allegedly forged, she may apply for conduct of an inquiry under the provisions of section 340 Cr.P.C. Moreover, the complaint has been dismissed for non-prosecution and obviously has not been decided on merits and on inquiry if it is found that she indeed did not move any such application, her right to prosecute the complaint case shall remain intact.
6. I do not find any illegality/irregularity of the nature so as to justify the interference in impugned orders in exercise of powers under Article 227 of Constitution of India. Subject to observations made in para-5 of the order, the petition is **disposed of**.

Order Date :- 31.10.2023

Sumit Kumar