

Court No. - 91

Case :- APPLICATION U/S 482 No. - 39521 of 2023

Applicant :- Puneet Arora

Opposite Party :- State Of U.P. And 2 Others

Counsel for Applicant :- Bhupendra Kumar Pandey,Ajeet Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar,J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State.

2. The present 482 Cr.P.C. application has been filed to quash the impugned order dated 18.07.2023 passed by Additional Session Judge/ F.T.C.-I, Prayagraj in Criminal Revision No. 254 of 2023 (Puneet Arora Vs. State of U.P.), U/s 397 of Cr.P.C. as well as impugned order dated 21.02.2023 passed by Chief Judicial Magistrate, Allahabad in Case No. 1855 of 2022 (State vs. Puneet Arora) arising out of Case Crime No.663 of 2021, under sections 419, 420, 406, 467, 468, 471, 120-B IPC, Police Station- Civil Lines, District- Allahabad and further to direct the opposite party No.2 to release the amount of Rs.4,02,800/- in favour of applicant.

3. It is submitted by learned counsel for the applicant that a first information report has been lodged by the opposite party no.3 against the two named accused person and some other persons in Case Crime No.663 of 2021, under sections 419, 420, 406 IPC, Police Station- Civil Lines, District- Allahabad. During investigation the applicant was arrested from Chandigar on 23.10.2021 and recovery of Rs.4,02,800/- was made from the possession of the applicant. Further submission is that the Investigating Officer has submitted charge sheet against the

applicant in a perfunctory manner under sections 419, 420, 467, 468, 471, 120-B IPC and the learned Magistrate took cognizance upon the same in a mechanical way. Submission is that at the time of arrest of the applicant, the opposite party no.2 has also recovered a Car and some mobile phone from the possession of the applicant which has been released in favour of the applicant by the Chief Judicial Magistrate, Allahabad on the release application of the applicant. Contention is that the applicant has moved a release application for the release of the amount of Rs.4,02,800/- recovered from the applicant but the learned CJM without applying his judicial mind has rejected the same vide order dated 21.02.2023 against which a revision was filed by the applicant before the competent court and same was also dismissed by the revisional court vide order dated 18.07.2023 without considering all the aspects of the case. Learned counsel for the applicant has placed reliance over the judgment of Hon'ble The Apex Court in the case of **Sunderbhai Ambalal Desai Vs. State of Gujarat, 2002 (10) SCC 283.**

4. It is argued that both the impugned orders are illegal and liable to be set aside. It is further argued that the amount in question was seized without following the procedure prescribed under law.

5. In view of the aforesaid, it is argued that the orders impugned be set aside and the amount of the applicant be directed to release.

6. On the other hand it is argued by the learned AGA that since the amount in question was obtained by deceiving the insurers of the insurance company, the impugned orders do not bear any illegality or impropriety.

7. From perusal of the record, it transpires that amount of the applicant was seized during investigation. The criminal

proceedings in this regard is still going on. It is settled law that there is no use to keep seized amount obtained from the applicant for the long period. The competent authorities are to return the amount after taking appropriate bond and guarantees as well as security for the return of the amount. The Supreme Court in the case of **Sunder Bhai Amba Lal Desai vs. State of Gujarat reported in 2002 (10) SCC 283** has held that it is of no use to keep such seized property/ amount in the custody of competent authority for a long period. Relevant paragraph of the aforesaid judgment is reproduced below:-

"4. The object and scheme of the various provisions of the Code appear to be that where the property which has been the subject-matter of an offence is seized by the police, it ought not to be retained in the custody of the Court or of the police for any time longer than what is absolutely necessary. As the seizure of the property by the police amounts to a clear entrustment of the property to a Government servant, the idea is that the property should be restored to the original owner after the necessity to retain it ceases. It is manifest that there may be two stages when the property may be returned to the owner. In the first place it may be returned during any inquiry or trial. This may particularly be necessary where the property concerned is subject to speedy or natural decay. There may be other compelling reasons also which may justify the disposal of the property to the owner or otherwise in the interest of justice. The High Court and the Sessions Judge proceeded on the footing that one of the essential requirements of the Code is that the articles concerned must be produced before the Court or should be in its custody. The object of the Code seems to be that any property which is in the control of the Court either directly or indirectly should be disposed of by the Court and a just and proper order should be passed by the Court regarding its disposal. In a criminal case, the police always acts under the direct control of the Court and has to take orders from it at every stage of an inquiry or trial. In this broad sense, therefore, the Court exercises an overall control on the actions of the police officers in every case where it has taken cognizance."

8. From perusal of the impugned order, it is apparent that the learned Additional Sessions Judge has rejected the application of the applicant vide order dated 21.02.2023 observing that the money has been obtained by illicit practice for which evidence is to be collected. The ground on which the application has been rejected are not good in the eyes of law as no purpose is going on to be served by keeping the property in custody of competent authority or otherwise. While passing the impugned order, the learned Court has not considered the mandate of the Apex Court

laid down in **Sunder Bhai Amba Lal Desai (supra)** regarding the release of seized articles.

9. Thus, the orders impugned dated 21.02.2023 and 18.07.2023 are hereby set-aside. The matter is remanded back to the trial court concerned to decide the matter afresh in accordance with law, within a period of two months from the date of production of certified copy of this order.

10. With the aforesaid observations, the application stands **disposed of.**

Order Date :- 3.11.2023

Shiv