

Court No. - 12

Case :- APPLICATION U/S 482 No. - 3101 of 2018

Applicant :- Smt. Neha Srivastava Prop. N V System

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

Counsel for Applicant :- Saurabh Srivastava

Counsel for Opposite Party :- Govt. Advocate, Ankit Srivastava, Ramaker Yadav, Sachin Kumar Pandey

Hon'ble Rajeev Singh, J.

1. Heard learned counsel for the petitioner, learned counsel for the private respondent and perused the record.

2. On 03.10.2023 following order was passed:-

"1. Heard.

2. On 22.08.2023, following order was passed:

"1. Heard.

2. On 10.08.2023, following order was passed:

"1. Heard.

2. On 17.07.2023, following order was passed.

"1. Heard learned counsel for the applicant and learned counsel for the private respondent.

2. On 2.5.2023, following order was passed:-

"Heard Shri Saurabh Srivastava, learned counsel for the applicant, Shri Sachin Kumar Pandey, learned counsel for the opposite party no.2 and Shri Diwakar Singh, learned AGA for the State-opposite party no.1 and perused the record.

This case is connected with the Application under Section 482 Cr.P.C. Nos. 5604 of 2018 , 5607 of 2018 and 5598 of 2018.

Learned counsel for the applicant submits that apart from the aforesaid mentioned cases including the present case, one more case bearing Application under Section 482 Cr.P.C. No. 4212 of 2018 is there, hence this case may also be connected with these cases.

Learned counsel for the applicant further submits that his client Smt.Neha Srivastav is ready to pay the cheque amount of Rs. 8,22,249/- mentioned in Application No. 3101 of 2018 (U/s 482 Cr.P.C.), Rs. 1,11,450/- mentioned in Application No. 5598 of 2018 (U/s 482 Cr.P.C.), Rs. 1,33,437/- mentioned in Application No. 5607 of 2018 (U/s 482 Cr.P.C.),

Rs. 11,13,715/- mentioned in Application No. 5604 of 2018 (U/s 482 Cr.P.C.), and Rs. 30,150/- mentioned in Application No. 4212 of 2018 (U/s 482 Cr.P.C.) by way of bank draft to Mr. Rajesh Sachan, who is Proprietor of the Company-opposite party no.2, but he wants some time for the same.

Learned counsel for the applicant gives proposal for making payment of the cheque amounts of Rs. 30,150/- mentioned in Application No. 4212 of 2018 (U/s 482 Cr.P.C.) and Rs. 11,13,715/- mentioned in Application No.5604 of 2018 (U/s 482 Cr.P.C.) by way of bank draft in the name of Mr. Rajesh Sachan by the applicant-Smt. Neha Srivastava on the next date fixed i.e. 26.05.2023 and also the remaining cheque amount of Rs. 8,22,249/- mentioned in Application No. 3101 of 2018 (U/s 482 Cr.P.C.), Rs. 1,11,450/- mentioned in Application No. 5598 of 2018 (U/s 482 Cr.P.C.), and Rs. 1,33,437/- mentioned in Application No. 5607 of 2018 (U/s 482 Cr.P.C.) by way of bank draft in the name of Rajesh Sachan by the applicant-Smt. Neha Srivastava in the month of July, 2023.

Shri Sachin Kumar Pandey, learned counsel for the opposite party no.2 has no objection to the proposal given by the learned counsel for the applicant.

Accordingly in view of the proposal given by the learned counsel for the parties, learned counsel for the applicant is directed to pay the cheque amount of Rs.30,150/- mentioned in Application No. 4212 of 2018 (U/s 482 Cr.P.C.) and Rs. 11,13,715/- mentioned in Application No. 5604 of 2018 (U/s 482 Cr.P.C.) by way of bank draft to Mr. Rajesh Sachan on the next date fixed i.e. 26.05.2023 and the remaining cheque amount of Rs. 8,22,249/-mentioned in Application No. 3101 of 2018 (U/s 482 Cr.P.C.), Rs. 1,11,450/- mentioned in Application No. 5598 of 2018 (U/s 482 Cr.P.C.), and Rs. 1,33,437/- mentioned in Application No. 5607 of 2018 (U/s 482 Cr.P.C.) shall be paid by the applicant by way of bank draft to Mr. Rajesh Chauhan in the month of July, 2023.

List this case on 26.05.2023 for further hearing before this Court alongwith connected matters including Case No. 4212 of 2018 (u/s 482 Cr.P.C.). On the said date, Rajesh Sachan, Proprietor of the Company-opposite party no.2 shall appear in person before this Court to collect the above two bank drafts of Rs. 30,150/- and Rs. 11,13,715/- as mentioned above.

Interim order granted earlier by this Court is extended till the next date of listing."

3. The claimed amount, i.e., Rs.11,13,715/- and 30,150/- has already been paid by way of two bank drafts, as a result, application under Section 482 Nos.4212 of 2018 and 5604 of 2018 lost their efficacy and have already been dismissed as infructuous with the consent of the parties.

4. Learned counsel for the applicant undertakes that rest amount of Rs.8,22,249/- in application under Section 482 No.3101 of 2018, Rs.1,11,450/- in application under Section 482 No.5598 of 2018 and Rs.1,33,437/- in application under Section No.5607 of 2018 will be paid to the private respondent on the next date of listing by way of bank draft.

5. List this case on 10.8.2023.

6. On the next date, applicant as well as private respondent shall appear

before this Court.

7. Interim order, granted earlier, shall continue till the next date of listing."

3. Applicant is not present before this Court whereas private respondent is present.

4. Learned counsel for the applicant submitted that the amount as mentioned in para-4 of the aforesaid order could not be arranged, therefore, applicant is unable to pay the same today and requested for some time and also informed that on the next date, applicant shall remain present before this Court.

5. List this case on 22.08.2023 at 11:30 AM.

6. On the next date, applicant as well as private respondent shall appear before this Court. In case, the applicant fails to appear and deposit the said amount as mentioned in para-4 of the aforesaid order, the interim order shall be vacated automatically."

3. Learned counsel for the applicant submitted that all the amount has already been paid to the private respondent and only Rs.8,22,249/- (Eight lakh twenty two thousand two forty nine rupees) is due, therefore, he requested for one month's time to refund the said amount by way of draft.

4. List this case on 03.10.2023.

5. On the next date, private respondent as well as applicant shall again appear before this Court and applicant will place a demand draft of Rs.8,22,249/- (Eight lakh twenty two thousand two forty nine rupees) before this Court.

6. Interim order, granted earlier, shall continue till the next date of listing."

3. Learned counsel for the applicant submitted that applicant is suffering from fever, as a result, she is unable to appear before this Court and also requested for some time.

4. Private respondent is present along with his counsel.

5. List this case on 06.11.2023 at 11:30 AM.

6. On the next date, applicant shall appear in person before this Court along with the demand draft of Rs.8,22,249/- (Eight lakh twenty two thousand two forty nine rupees) as directed earlier.

7. Private respondent shall also appear in person before this Court on the next date.

7. Interim order, granted earlier, is extended till the next date of listing.

9. In case, the applicant fails to appear before this Court on the next date, interim order shall be vacated automatically."

3. Applicant is present before this Court despite clear direction. Learned counsel for the applicant informed that as the money in question could not be arranged therefore she is unable to appear before this Court.

4. As it is evident from the aforesaid order that on different dates assurance was given by the petitioner for making payment and then the protection was granted but it is very much clear that she has violated the undertaking given before this Court. Therefore, this case is dismissed due to conduct of the applicant.

5. At this stage, learned counsel for the applicant submitted that he may be permitted to withdraw the present petition but the prayer is refused.

6. Interim order, if any is hereby vacated.

7. Office is directed to communicate this order to the learned Trial Court, forthwith, for necessary action.

Order Date :- 6.11.2023

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