

Court No. - 12

Case :- APPLICATION U/S 482 No. - 10810 of 2023

Applicant :- Anupama Singh

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko. And 3 Others

Counsel for Applicant :- Prashant Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh,J.

1. Heard learned counsel for the applicant, learned AGA and perused the record.

2. Present petition has been filed with the following prayer:-

"To quash/set aside the impugned order dated 06/04/2023, passed by Learned Special Chief Judicial Magistrate, Custom, Lucknow in Criminal Misc Case No.550/2023, contained as Annexure No.2 to this application and further be pleased to direct the Learned Court below to reconsider the matter on merits and pass fresh order in accordance with law, within stipulated time frame, in the interest of justice."

3. Learned counsel for the applicant submitted that grand-father of the applicant alongwith the family members were cheated by the private respondent as the private respondent motivated the grand-father of the applicant to sell the property that is bhumi Khasra no. 98, 100, 102, 115, 116, 121, 123, 124, 125, 126, 127, 128, 129, 130, 131, 138ka and 1185 ka.mi., area 1.280 hectare. In lieu of the sale consideration, amount Rs. 25 lakh and in the sale deed details of three cheques were given as:-

(i) Cheque no. 130753 dated 14.01.2021, Union Bank Branch-32 Battalion, P.A.C., Kanpur Road, Lucknow, amounting Rs. Ten lakh,

(ii) Cheque no. 130752 date 22.01.2021, Union Bank Branch-32 Battalion, P.A.C., Kanpur Road, Lucknow, amounting Rs. Ten lakh,

(iii) Cheque no.130754 dated 20.01.2021, Union Bank Branch-32 Battalion, P.A.C., Kanpur Road, Lucknow, amounting Rs. Five lakh.

4. It is further submitted by learned counsel for the applicant that after execution of sale deed, Cheque nos. 130753 and 130752 were given after filling Rs. One lakh in number and Rs. Ten lakh in words and due to this discrepancy the aforesaid cheques could not be honoured and in the mean-time grand father of the applicant died, due to shock, on 19.03.2021 and

thereafter complaint was made then the private respondent gave six cheques of Rs. Thirty-six lakhs by saying that they are giving compensation but all cheques were dis-honoured and thereafter father of the applicant also died and applicant moved application before the police authorities for lodging of the FIR but the same could not be considered. Then the application under Section 156 (3) CrPC was filed which was treated as a complaint case, ignoring the provisions of Section 154 CrPC as well as the principles laid down by the Hon'ble Apex Court in the case of **Lalita Kumari vs Govt.Of U.P.& Ors reported in 2014 2 SCC 1** and he also relied on the latest decision of the Hon'ble Apex Court in the case of **XYZ Appellant vs The State Of Madhya Pradesh and ors. reported in 2022 SCC online 102** and submitted that it was obligatory on the part of the Court below to direct the police authorities for lodging of FIR and investigate the same but the learned Court below treated the application as complaint case, therefore kind indulgence of this Court is necessary.

5. Learned AGA opposed the prayer of the applicant and submitted as the application of applicant is treated as a complaint case and the fate of the case would be dependent on the evidence placed before the Court below, therefore, there is no illegality but he does not dispute this fact that on the basis of law laid down by the Hon'ble Apex Court in the case of **Lalita Kumari vs Govt.Of U.P.& Ors reported in 2014 2 SCC 1** as well as the case of **XYZ Appellant vs The State Of Madhya Pradesh and ors. reported in 2022 SCC online 102**.

6. Considering submissions of rival parties as well as going through the content of petition, as it is evident from the record that there is a specific allegation that in the sale deed two cheques were given amounting Rs. Ten lakhs but in the cheques Rs. One lakh is filled in number and Rs. Ten lakh is filled in words and no sale consideration was paid to the seller and thereafter other cheques were also given but all these cheques were bounced, therefore, it is a case requiring investigation. In such circumstances, this application filed under Section 482 is allowed and the impugned order passed by the learned Court below is hereby **quashed**.

7. A.C.P., Krishna Nagar is directed to ensure the registration of the FIR of the applicant and investigate the same and submit a police report to the court concerned after getting all the necessary verification and examination done from the FSL.

Order Date :- 3.11.2023/Vipul