

Court No. - 75

Case :- APPLICATION U/S 482 No. - 21653 of 2024

(Leading case)

Applicant :- Dr Suresh Kumar And Another

Opposite Party :- State Of Up And Another

Counsel for Applicant :- Shambhavi Nandan

Counsel for Opposite Party :- Swetashwa Agarwal,G.A.

connected with

Case :- APPLICATION U/S 482 No. - 21546 of 2024

(Connected case)

Applicant :- Dr Suresh Kumar And Another

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

Counsel for Applicant :- Shambhavi Nandan

Counsel for Opposite Party :- G.A.,Swetashwa Agarwal,Yash Raj Verma

Hon'ble Vikas Budhwar,J.

1. Sri Akhil Sharma, Advocate holding brief of Sri Shambhavi Nandan, learned counsel for the applicants, Sri Motil Lal learned AGA for the State and Sri Swetashwa Agarwal,learned counsel for opposite party no.2.

2. A joint statement has been made by learned counsel for the parties that they do not propose to file any response and the application be decided on the basis of the documents available on record.

3. With the consent of the parties, both the applications are being decided at the fresh stage.

4. The case in the leading application is that a complaint stood lodged by the opposite party no.2 on 06.01.2022 against the applicants U/s 138 of N.I. Act with an allegations that with respect to discharge of liability, three cheques bearing nos. 802509, 802525 and 802526 dated 07.10.2021 came to be drawn of an amount of Rs. 254240/-, Rs. 250,000/- and Rs. 250,000 which came to be dishonoured on 26.10.2021, a statutory demand notice was issued on 02.12.2021 in failing to make the payment, the

complaint stood lodged on 06.01.2022, thereafter the applicant came to be summoned on 14.06.2022. It is also the case of the applicant that the applicant was ready to amicable settle the matter and when the said amount was not been received by the opposite party no.2, an application came to be preferred U/s 147 of N.I. Act on 12.05.2023 before the court below which was dismissed on 21.12.2023 against which the applicant preferred a criminal revision on 06.02.2024 being no. 106 of 2024 (Family Health Care Hospital Pvt. vs. Sri Saurabh Jain and Ors) which came to be dismissed on 26.02.2024. The applicants also preferred an application on 14.03.2024 for compounding of the offences which came to be rejected on 20.06.2024. Thus the leading application filed for quashing the order dated 20.06.2024 passed by Civil Judge (J.D.)/ FTC/ J.M., Ghaziabad in complaint case no. 20 of 2022 U/s 138 of N.I. Act.

5. This Court on 25.10.2024 while entertaining the leading application proceeded the following orders:

"1. Heard Sri Akhil Sharma, learned counsel holding brief of Sri Shambhavi Nandan, learned counsel for the applicants and Sri Sandeep Choudhary, learned AGA for the State.

2. The present 482 Cr.P.C. application has been filed to quash the entire proceedings of Complaint Case No.20 of 2022, under Section-138 of Negotiable Instruments Act, 1881 (hereinafter referred to as 'the Act, 1881'), pending in the court of Civil Judge (Jr. Div.)/FTC Judicial Magistrate, Ghaziabad as well as order dated 20.06.2024.

3. Contention of learned counsel for the applicants is that applicants had already deposited entire cheque amount including 15% cost and he is ready to compound the offence u/s 147 of the Act, 1881 by clearing entire outstanding. It is further submitted that this court in Application u/s 482 No.21546 of 2024 (Dr. Suresh Kumar And Another Vs. State of U.P. and Another) which was filed by the applicant, had already granted protection vide order dated 05.08.2024 by taking into consideration that the applicants had deposited entire cheque amount along with 15% cost. Therefore, present application may be tagged with Application u/s 482 No.21546 of 2024 and same protection may also be granted.

4. Considering the aforesaid submission and taking into account that coordinate bench of this court has granted protection to the applicants in Application u/s 482 no.21546 of 2024 (Dr. Suresh Kumar And Another Vs. State of U.P. and Another) on the ground that applicants had already deposited entire cheque amount along with the cost, therefore, applicants are also entitled for same protection.

5. Issue notice to opposite party no.2 returnable at an early date.

6. Connect and list on 27.11.2024 as fresh along with Application u/s 482

no.21546 of 2024.

7. Till the next date of listing, no coercive action shall be taken against the applicants in the aforesaid case. "

6. This court on 04.12.2024, proceeded to pass the following order:

"1. Sri Swatashwa Agrawal, Advocate has filed his vakalatnama on behalf of opposite party no.2, which is taken on record.

2. Heard Sri Shambhavi Nandan, learned counsel for the applicants, Sri Swatashwa Agrawal, learned counsel for the opposite party no.2 as well as Sri Pankaj Saxena, learned A.G.A. for the State.

3. From the perusal of the order sheet, it appears that this Court considering the fact that applicants have already deposited entire cheque amount including the 15% costs before the Court, Court granted interim order in favour of the applicant to explore the possibility by compounding the offence on getting the consent of opposite party no.2.

4. Today, learned counsel for the opposite party no.2 has submitted that the opposite party no.2 is not ready to compound the offence only on the basis of taking cheque amount and there is a liability of interest towards the applicant as well as of compensation.

5. On persuasion of the Court, learned counsel for the applicant and learned counsel for the opposite party no.2 agreed that this matter may be settled through mediation.

6. Considering the aforesaid request, the present matter is referred to the Mediation and Conciliation Centre, High Court Allahabad, subject to the condition that the applicant will deposit a sum of Rs.5,000/- with the Mediation Centre that shall be retained by the mediation center towards its expenses.

7. With the consent of learned counsel for both the parties, this Court directs both the parties to appear before the Mediation Centre, High Court, Allahabad on 21.12.2024 and the Mediation Centre will try to mediate and settle the dispute between the parties within a period of one month and thereafter submit its report to this Court.

8. Put up this case as fresh with the report of Mediation Centre on 27.01.2025 along with connected Application U/S 482 No.21546 of 2024.

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

7. This court on 27.01.2025, proceeded to pass the following order:

"1. Heard Sri Shambhavi Nandan, learned counsel for the applicants through video conferencing, Sri Swetashwa Agarwal, learned counsel for the opposite party no.2 and Sri Rajeev Kumar Singh, learned AGA for the State.

2. From perusal of the record, it appears that this matter was referred to the Mediation Centre, High Court, Allahabad, vide order dated 04.12.2024 with a condition that applicants will deposit 15% of the cheque amount as cost as the applicants had already deposited the cheque amount before the court below. Though, the applicants had deposited 15% of the cheque amount of cost in compliance of order dated 04.12.2024 and parties have also participated in the mediation proceeding. But as per mediation centre report dated 21.12.2024, though parties have appeared before the mediation centre but mediation has failed. Therefore, this court has proceeded to hear this case on merits.

3. Learned counsel for opposite party no.2 has submitted that in the connected case no.21546 of 2024, he had already filed counter affidavit on 07.01.2025 and he will file the counter affidavit in this case also by tomorrow.

4. Learned counsel for the applicants seeks three weeks time to file rejoinder affidavit.

5. Put up as fresh on 11.03.2025 for final disposal along with the connected matter.

6. As the applicants have already deposited the cheque amount before the court below and also complied the order of this court dated 04.12.2024 by depositing 15% of cheque amount as cost, therefore, in the interest of justice, till the next date of listing, no coercive action shall be taken against the applicants. "

8. This Court on 11.03.2025, proceeded to pass the following order:

"1. Heard Sri Akhil Sharma, Advocate, holding brief of Sri Shambhavi Nandan, learned counsel for the applicants, Sri Swetashwa Agarwal, learned counsel for the opposite party no. 2 and Sri Rajeev Kumar Singh, learned A.G.A. for the State.

2. The present 482 Cr.P.C. application has been filed to quash the order dated 20.06.2024 passed by Civil Judge (Jr. Div.)/F.T.C., Judicial Magistrate, Ghaziabad, in Complaint Case No. 20 of 2022 under Section- 138 of Negotiable Instruments Act, and compound offence against the applicants.

3. From the perusal of the record, it appears that the applicants have already deposited cheque amount before the Registrar General of this Court during the pendency of this case and 15% of the cheque amount of the cheque in question in the connected case being Application U/S 482 No. 21546 of 2024 has been deposited in pursuance of order dated 05.08.2024.

4. This Court vide order dated 04.12.2024 referred this matter to Mediation Centre of Allahabad High Court. The report of mediation centre dated 21.12.2024 shows that no agreement could be entered into between the parties. Therefore, this Court proceeds to hear this case on merits.

5. After some persuasion, both the parties agreed to settle the dispute with the

condition that the applicants will pay 70% of the cheque amount as compensation apart from the cheque amount to the opposite party no. 2. The draft of 15% of the cheque amount in this case is also lying with the Registrar General.

6. As the validity of the draft of the cheque amount as well as validity of draft of 15% of the cheque amount has already been expired, therefore, the Registrar General is directed to return the aforesaid drafts to the learned counsel for the applicants and learned counsel for the applicants will bring a draft of cheque amount along with 70% of cheque amount as compensation on the next date.

7. Put up this case as fresh on 25.03.2025 along with the connected matter."

9. As regards the connected application, the same has been preferred by the applicants wherein the case set up on 15.12.2021 a complaint stood preferred by the opposite party no.2 against the applicants U/s 138 of N.I. Act with regard to dishonouring of a cheque bearing no. 801815 dated 02.10.2021 of an amount of Rs.119504/- and the other one bearing no. 802529 of an amount of Rs. 2,53,680/-. On 14.06.2025 the applicants came to be summoned U/s 138 of N.I. Act. The applicants came to be summoned U/s 138 of N.I. Act. The applicants claims that they were ready and willing to settle the dispute amicable thus on 12.05.2023, proceedings U/s 147 of N.I. Act came to be preferred which was dismissed by the court below on 21.12.2023 against which a criminal revision no. 105 of 2024 (Family Health Care Hospital Pvt. vs. Saurabh Jain and Ors) came to be preferred which came to be dismissed on 26.02.2024 and 14.03.2024 and against an application U/s 147 of N.I. Act for compounding was preferred which was rejected on 20.06.2024. Thereafter, the present application has been filed for quashing the order dated 20.06.2024 passed by Civil Judge (J.D.)/ FTC/ J.M., Ghaziabad in complaint case no. 20 of 2022 U/s 138 of N.I. Act.

10. This Court on 05.08.2024 proceeded to pass the following order:

"1. Heard Sri Akhil Sharma, Advocate holding brief of Sri Shambhavi Nandan, learned counsel for the applicants and Sri Mohd. Shoeb Khan, learned AGA for the State.

2. The instant application under Section 482 Cr.P.C. has been filed seeking quashing of the 20.06.2024 passed by the Civil Judge (Jr. Div.) / Judicial Magistrate-FTC, Ghaziabad as well as the entire proceeding of Complaint Case No. 1921 of 2021, under Section 138 of Negotiable Instruments Act, P.S. Kavinagar, District Ghaziabad.

3. Learned counsel for the applicants submits that the applicants herein had

issued two cheques of Rs. 3,73,184/- and Rs.7,54,240/- respectively, for which the instant complaint case has been fled and another case was filed by the opposite party no.2. Learned counsel for the applicants further submits that he had tendered the cheque amount before the trial court and moved an application under Section 147 of the Negotiable Instruments Act. After the trial court has rejected the application for compounding holding that the entire disputed amount has been undertaken to be deposited before the trial court in the complaint case, was not deposited.

4. Learned counsel for the applicant submits that to show his bonafide, he is ready to deposit the demand draft of the aforesaid amounts along with 15 per cent towards the cost of compounding in terms of *Damodar S Prabhu vs. Sayed Babalal H*, (2010) 5 SCC 663 and he has tendered four demand drafts of Rs,7,54,420, Rs. 3,73,184/-, Rs. 1,13,136/- and Rs. 55,978/-.

5. The aforesaid demand drafts have been taken on record to be kept in the safe custody of the Registrar General of this Court.

6. Issue notice to opposite party no.2.

7. Put up this matter on 03.09.2024 as fresh.

8. Since the entire cheque amount plus 15 per cent cost of compounding, has been deposited by the applicant, in view thereof, till the next date of listing, no coercive steps shall be taken against the applicants."

11. On 04.12.2024 this Court proceeded to pass the following order:

"1. Sri Swatashwa Agrawal, Advocate has filed his vakalatnama on behalf of opposite party no.2, which is taken on record.

2. Heard Sri Shambhavi Nandan, learned counsel for the applicants, Sri Swatashwa Agrawal, learned counsel for the opposite party no.2 as well as Sri Pankaj Saxena, learned A.G.A. for the State.

3. From the perusal of the order sheet, it appears that this Court considering the fact that applicants have already deposited entire cheque amount including the 15% costs before the Court, Court granted interim order in favour of the applicant to explore the possibility by compounding the offence on getting the consent of opposite party no.2.

4. Today, learned counsel for the opposite party no.2 has submitted that the opposite party no.2 is not ready to compound the offence only on the basis of taking cheque amount and there is a liability of interest towards the applicant as well as of compensation.

5. On persuasion of the Court, learned counsel for the applicant and learned counsel for the opposite party no.2 agreed that this matter may be settled through mediation.

6. Considering the aforesaid request, the present matter is referred to the

Mediation and Conciliation Centre, High Court Allahabad, subject to the condition that the applicant will deposit a sum of Rs.5,000/- with the Mediation Centre that shall be retained by the mediation center towards its expenses.

7. With the consent of learned counsel for both the parties, this Court directs both the parties to appear before the Mediation Centre, High Court, Allahbad on 21.12.2024 and the Mediation Centre will try to mediate and settle the dispute between the parties within a period of one month and thereafter submit its report to this Court.

8. Put up this case as fresh with the report of Mediation Centre on 27.01.2025 along with connected Application U/S 482 No.21653 of 2024.

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

12. Today when the matter has been taken up, learned counsel for the appellants tendered two drafts bearing no. 058263 dated 20.06.2025 for an amount of Rs. 527968/- and the second draft dated 20.06.2025 bearing no. 058261 of an amount of Rs.754240/- in favour of Shaily Life Science Pvt while contending that with respect to the 70 per cent compensation in respect of the cheques stood dishonoured in the leading application and the principal amount they are being tendered to the opposite party no2.

13. Learned counsel appearing for opposite party no.2 submits that now nothing remains to be further proceeded with. As now settlement has been arrived into between the parties and the proceedings be given at decent burial.

14. As regards in the connected applications, learned counsel for the applicants has tendered two drafts dated 20.06.2025 respectively bearing no. 058260 and 058262 of an amount of Rs. 261229/- and Rs. 373184/- in favour of Shaily Life Science Pvt. They submits that the total principal amount along with the compensation to the tune of 70 percent is being tendered to the bank draft.

15. Learned counsel appearing for opposite party no.2 submits that it is full and the final amount and nothing remains to be further adjudicated.

16. Learned AGA on the other hand submits that they have no objection if the parties proceed to enter into a compromise.

17. Considering the stands taken by the respective parties, that now the matter has been compromised, nothing remains to be further adjudicated.

18. Accordingly the both the applications stands allowed and the impugned summoning order dated 20.06.2024 passed by Civil Judge (J.D.)/ FTC/ J.M. in complaint case no. 1921 of 2021 and 20 of 2022, U/s 138 of N.I. Act are hereby quashed.

19. A copy of the four bank drafts are being handed over by the counsel for the applicants to the counsel appearing for opposite party no.2.

20. The receiving of the drafts by the counsel for opposite party no.2 from the counsel for applicants are recorded in the order sheet and the photo copies of the drafts are being kept on record.

Order Date :- 15.7.2025
C. MANI

(Vikas Budhwar,J.)