

SHASHI BALA AND ANOTHER Petitioners

STATE OF PUNJAB AND ANOTHER Respondents

Mr. Ajay Sharma, Advocate for
Mr. Shailender Mohan, Advocate
for respondent No.2.

While issuing notice of motion on 12.05.2014, this Court passed the following order:-

Counsel appearing for the petitioners has produced before this Court, a Bankers cheque dated 12.05.2014 in favour of Union Bank of India for an amount of Rs. 4,08,000/-.

Counsel would further submit that as per settlement arrived at in the year 2012, the amount due from the petitioners towards Union Bank of India was Rs. 35 lacs. It is submitted that Rs.10 lacs was paid on 17.09.2012, Rs.5 lacs on 27.04.2013 and Rs.4,92,000/- on 11.09.2013. Accordingly, it is submitted that the total outstanding amount that remained due from the petitioners was Rs.15,08,000/-.

Notice of motion, returnable for 30.05.2014.

Counsel is directed to deposit the Bankers cheque dated 12.05.2014 produced in Court today for an amount of Rs.4,08,000/- in the registry during the course of the day.

Undertaking furnished by learned counsel is recorded to the effect that on the adjourned date i.e. on 30.05.2014, a demand draft of Rs.4 lacs in favour of Union Bank of India shall be duly produced.

In the meanwhile, the petitioners are directed to join investigation and to appear before the Investigating Officer on 19.05.2014 at 11.00 A.M.

In the event of arrest, the petitioners shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer. The petitioners shall join investigation as and when called upon to do so and they shall remain bound by the conditions as envisaged under Section 438(2) Cr.P.C.

A copy of this order be given to the learned counsel for the petitioner under the signatures of Bench Secretary of this Court.”

Thereafter, an undertaking was given before this Court by learned counsel for the petitioners on 03.07.2014 that the entire outstanding amount shall be deposited with the respondent bank before the adjourned date. On the said undertaking given on behalf of the petitioners, this Court

passed the following order:-

“On the oral submission made by learned counsel appearing for the petitioners, Union Bank of India, Overseas Branch, Jalandhar through its Chief Manager is impleaded as party respondent No. 2. Registry is directed to carry out necessary changes in the memo of parties.

The interim protection granted to the petitioners as regards arrest is extended till the next date of hearing on the specific undertaking being given by the counsel for the petitioners that the entire outstanding amount due from the petitioners would be deposited in the loan account of M/s Pankaj International maintained with respondent No. 2 bank on or before the adjourned date.

List on 21.08.2014.

Registry is directed to issue notices to the newly added respondent No. 2, returnable for the adjourned date.”

It is undisputed between the parties that the above said order dated 03.07.2014 passed by this Court was not complied with by the petitioners. Despite having been granted another adjournment on 21.08.2014, petitioners did not comply with the order dated 03.07.2014 and on 18.09.2014, following order was passed by this Court:-

“Once again, a request for adjournment is being made by learned counsel for the petitioners for making compliance of order dated 3.7.2014.

Adjourned to 27.10.2014.

Interim order to continue.

However, it is made clear that if the order dated 03.7.2014 remains un-complied with, by the next date and again a similar request for adjournment is made, order granting interim anticipatory bail on 12.5.2014 shall stand automatically vacated.”

Order dated 03.07.2014 was still not complied with by the petitioners and this Court was left with no other option except to vacate the abovesaid interim direction issued in favour of the petitioners, by passing the following order on 27.10.2014:-

“Order dated 03.07.2014 has remained uncomplied with. In these circumstances, order dated 12.05.2014 allowing interim anticipatory bail to the petitioners, stands vacated.

Post for hearing on 15.12.2014.”

Learned counsel for the petitioners submits that the petitioners could not arrange the funds to comply with the above said order dated 03.07.2014 passed by this Court. If it was so difficult for the petitioners, they should not have given a clear and specific undertaking before this Court on 03.07.2014.

In fact, after going through the above said orders passed by this Court, at the instance of the petitioners, this Court is of the prima facie view that the petitioners are glaringly misusing the process of law. The outstanding amount is still not being paid by the petitioners. No reason is forthcoming as to why the petitioners did not comply with the orders passed by this Court.

In view of the above, no case for anticipatory bail is made out.

Dismissed.

(RAMESHWAR SINGH MALIK)
JUDGE

April 30, 2015
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