

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APPP) NO.623 OF 2014

IN

CRIMINAL APPLICATION (APL) NO.63 OF 2013

Diwanka Energy Private Limited

..vs..

Abhishek Translet Limited and ors

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders
.....

Court's or Judge's Order

Shri R.M. Patwardhan, Advocate for the Applicant/Orig. Non-applicant No.2.

Shri R.H. Chandurkar, Advocate for the Non-applicant Nos.1 to 6.

Shri K.R. Lule, Addl.P.P. for the non-applicant No.7.

CORAM : Z.A. HAQ, J.

DATED : APRIL 29, 2016.

The original non-applicant No.2 has filed this application praying that the order passed by this Court on 28.11.2013 disposing the Criminal Application (APL) No.63 of 2013 be recalled, as the applicants have failed to abide by the terms of settlement on the basis of which the criminal application was disposed.

The original applicants had filed the Criminal Application (APL) No.63 of 2013 under Section 482 of the Code of Criminal Procedure praying that the proceedings of SCC No.25407 of 2012 pending before the learned Judicial Magistrate First Class, Court No.3, Nagpur be quashed. During the pendency of the Criminal Application (APL) No.63 of 2013, the matter

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was referred to the Mediator and the parties worked out the dispute amicably. Accordingly, the Pursis dated 20.2.2015 was prepared, signed by the applicant No.3 Gopal S/o Brindawan Agarwal and the learned Advocate representing the original applicants and was filed before this Court. Relying on the assurance and undertaking given on behalf of the applicants, as stated in the Pursis, this Court disposed the Criminal Application (APL) No.63 of 2013 and connected matters, by the order dated 28.11.2013.

The grievance of the original non-applicant No.2 is that the applicants have not abided by the undertaking given by them to this Court and have not complied with the terms of settlement.

Though several opportunities are given to the original applicants, they have failed to comply the terms of amicable settlement.

In view of the above facts, the following order is passed:

The order passed by this Court on 28.11.2013, disposing the Criminal Application (APL) No.63 of 2013, is recalled.

The Criminal Application (APL) No.63 of 2013 is restored to file.

Criminal Application (APL) No.63 of 2013

Shri R.H. Chandurkar, Advocate waives notice on behalf of the applicant Nos.1, 3 to 6.

Shri R.M. Patwardhan, Advocate waives notice of behalf of the non-applicant No.2.

Shri K.R. Lule, Additional Public Prosecutor, waives notice on behalf of the non-applicant No.1.

List the application for further consideration on 13.6.2016.

I find that the applicants have abused the process of law and have interfered with the administration of justice by making false representation to the Court that the matter is amicably settled. I find that the applicants prima-facie have committed criminal contempt as defined under Section 2(c) of the Contempt of Courts Act, 1971.

Issue notice in Form 1 under Rules to Regulate Proceedings for Contempt under Article 215 of the Constitution of India and the Contempt of Courts Act, 1971 under Chapter XXXIV of the Bombay High Court Appellate Sides Rules, 1960 to the applicants, returnable on 29.6.2016.

JUDGE

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