Court No. - 76

Case :- APPLICATION U/S 482 No. - 18883 of 2020

Applicant :- Nishant And Another
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Onkar Singh,Sachin Malik
Counsel for Opposite Party :- G.A.

Hon'ble Ajit Singh,J.

This application under Section 482 Cr.P.C. has been filed for quashing the entire proceedings of Complaint Case No. 5368 of 2017, (Smt. Nisha Vs. Nishant and others), under Sections- 498A, 504, 506, 323 IPC and Section 3/4 D.P. Act, pending before the court of Special Chief Judicial Magistrate, Meerut, and the second prayer is that the Court may please to stay the further proceedings in Complaint Case No. 5368 of 2017, (Smt. Nisha Vs. Nishant and others), under Sections- 498A, 504, 506, 323 IPC and Section 3/4 D.P. Act, pending before the court of Special Chief Judicial Magistrate, Meerut, as well as the Court may please to stay the Non-Bailable Warrants passed by learned Special Chief Judicial Magistrate passed in Complaint Case No. 5368 of 2017, (Smt. Nisha Vs. Nishant and others), under Sections- 498A, 504, 506, 323 IPC and Section 3/4 D.P. Act, District Meerut.

Heard Sri Onkar Singh, learned counsel for the applicants and learned A.G.A for the State.

The contention of the counsel for the applicants is that applicant no. 1 was released by the lower court on interim bail on 18.03.2020 and after that date, normal functioning of the courts in the District-Meerut was disturbed due to COVID-19 pandemic and applicant no. 1 is the Assistant Manager in the State Bank of Patiala and posted at Mumbai. Learned counsel for the applicants has further submitted that this Court has extended the interim protections given to the litigants due to prevailing COVID-19 pandemic from time to time.

On 07.05.2020, following order was passed by this Court:-

"*By the order dated 26th March, 2020 following directions were issued by this Court :-*

"(i) All interim orders passed by the High Court of Judicature at Allahabad well as at Lucknow, all the District Courts, Civil Courts, Family Courts, Labour Courts, Industrial Tribunals and all other Tribunals in the State over which this Court has

power of superintendence, which have been expired subsequent to 19th March, 2020 or are due to expire within a period of one month from today, will continue to operate upto 26th April, 2020. We, however, make it clear that those interim orders which are not of a limited duration and are to operate till further orders will remain unaffected;

(ii) If the Criminal Courts in the State have granted bail orders or anticipatory bail for a limited period which are likely to expire in one month from today, the said orders will stand extended for a period of one month from today.

(iii) If any orders of eviction, dispossession or demolition are already passed by the High Court, District or Civil Courts, the same shall remain in abeyance for a period of one month from today;

(iv) Considering the fact that it will practically impossible for the citizens to approach the Courts for redressal of their grievances for a period of twenty-one days specified in the order of the Ministry of Home Affairs dated 24th March, 2020, we sincerely hope that the State Government, Municipal Authorities and the agencies and instrumentalities of the State Government will be slow in taking action of demolition and eviction of person."

The directions aforesaid were given in light of declaration of nation wide lockdown for a period of 21 days on 24th March, 2020. The period of lockdown has already been extended upto 3rd May, 2020.

In continuation of the order dated 22nd April, 2020, we deem it appropriate to issue following directions:-

(i) All interim orders passed by the High Court of Judicature at Allahabad well as at Lucknow, all the District Courts, Civil Courts, Family Courts, Labour Courts, Industrial Tribunals and all other Tribunals in the State over which this Court has power of superintendence, which have been expired subsequent to 19th March, 2020 or are due to expire within a period of one month from today, will continue to operate upto 3rd June, 2020. We, however, make it clear that those interim orders which are not of a limited duration and are to operate till further orders will remain unaffected;

(ii) If a bail has been granted in anticipation as an interim measure for a specific period and that period is going to expire on or before 17th May, 2020, the same shall stand extended upto 3rd June, 2020.

(iii) If any orders of eviction, dispossession or demolition are already passed by the High Court, District or Civil Courts, the same shall remain in abeyance till 3rd June, 2020 or having any order order by the court competent, whichever is earlier.

This order be published in the official website of this Court. A soft-copy of this order shall be sent to all concerned Courts and Tribunals; the learned Advocate General; the learned Additional Solicitor General of India; the learned Assistant Solicitor General of India; State Public Prosecutor and the Chairman of Bar Council of Uttar Pradesh."

These directions were further extended by the various Benches of this Court dated 27.05.2020, 08.06.2020, 19.06.2020, 10.07.2020, 14.07.2020, 29.07.2020, 19.08.2020 and 20.10.2020, copies of which orders have been annexed from page 38 to 52 and lastly it was extended vide order dated 20.10.2020 till 01.12.2020.

Learned counsel for the applicants has further prayed that non-bailable warrants issued against the applicants be stayed and he be given an opportunity to approach the lower court to present/press his regular bail application.

Learned A.G.A. has submitted that it is true that the interim protection granted to various litigants were extended from time to time by this Court.

From the perusal of the material on record and looking into the facts of the case at this stage it cannot be said that no offence is made out against the applicants. All the submissions made at the bar relate to the disputed questions of fact, which cannot be adjudicated upon by this Court under Section 482 Cr.P.C. At this stage only prima facie case is to be seen in the light of the law laid down by Supreme Court in cases of **R.P. Kapur Vs. State of Punjab**, A.I.R. 1960 S.C. 866, **State of Haryana Vs. Bhajan Lal**, 1992 SCC (Cr.) 426, **State of Bihar Vs. P.P.Sharma**, 1992 SCC (Cr.) 192 and lastly **Zandu Pharmaceutical Works Ltd. Vs. Mohd. Saraful Haq and another** (Para-10) 2005 SCC (Cr.) 283. The disputed defence of the accused cannot be considered at this stage.

The prayer for quashing the proceedings of the aforementioned case and the charge sheet is refused.

However, it is directed that if the applicant no. 1, who is Bank Officer and applicant no. 2, who is aged about 76 years and she is on bed rest will appear and surrender before the court below within one month from today and applies for bail, their prayer

for bail shall be considered and decided, if possible on the same day, if State/complainant seeks time then the trial court will grant interim bail till the final disposal of the bail application, in view of the settled law laid by this Court in the case of **Amrawati and another Vs. State of U.P.** reported in 2004 (57) ALR 290 as well as judgement passed by Hon'ble Apex Court reported in 2009 (3) ADJ 322 (SC) **Lal Kamlendra Pratap Singh Vs. State of U.P.**

For a period of one month from today of till the disposal of the application for grant of bail whichever is earlier, no coercive action shall be taken against the applicants. However, in case, the applicants do not appear before the Court below within the aforesaid period, coercive action shall be taken against them.

With the aforesaid directions, this application is finally disposed of.

Order Date :- 15.12.2020
Priya