IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No. 19145 of 2018

Date of Decision: December 20 , 2023.

Pallavi Sindhi ...... PETITIONER (s)

Versus

State Bank of India and another ...... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL
HON'BLE MRS.JUSTICE RITU TAGORE

Present: Ms. Rajwinder Kaur, Advocate for
Mr. Hitesh Verma, Advocate
for petitioner.

Mr. Gaurav Goel, Advocate
for respondent-Bank.

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1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

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LISA GILL, J.

1. Prayer in this writ petition is for setting aside communication dated 29.12.2017 (Annexure P5) issued by respondent-State Bank of India to the petitioner with the bank denying its liability to compensate petitioner while releasing a token amount of ₹4,00,000/- as goodwill gesture. Prayer is addressed for setting aside order/communication dated 15.01.2018 (Annexure P6) from the office of Banking Ombudsman whereby complaints submitted by petitioner have been closed on account of the same having been settled.

2. Brief facts as pleaded in this writ petition are that petitioner opened a saving account with State Bank of India at Rajpura Branch on 04.04.2011. In January, 2015 she transferred her bank account from Rajpura Branch to State Bank of India, PGIMER, Chandigarh as she got employment at the said Medical

Institute. In December, 2016, petitioner is stated to have updated her new mobile number with the Bank. When petitioner tried to withdraw some amount from her bank account on 27.06.2017, she was shocked to find that sufficient balance was not available. On inquiry, it came to light that petitioner was a victim of online fraud to the tune of ₹9 lakhs. Amount in question, it is stated, was spent in small transactions through online shopping websites from April, 2017 to June, 2017.

3. Complaint dated 27.06.2017 in this regard was submitted by petitioner to bank Manager. Complaint, Annexure P-4, was also lodged by petitioner before the Banking Ombudsmen Branch, RBI, Sector 17, Chandigarh.

4. Communication dated 29.12.2017 was received by petitioner from respondent-Bank to the effect that after examination of matter in detail, online transactions were found to have been made through her ATM card and pin at various online websites and it appears that she had inadvertently shared her ATM card credentials with some person. Respondent-Bank denied liability for any fault on its part and consequent liability to compensate the loss. However, as a goodwill gesture, respondent-Bank paid a token amount of ₹4 lakhs to petitioner. As per communication dated 15.01.2018 from the office of Banking Ombudsman, petitioner's complaint was closed on account of her complaint being settled.

5. Learned counsel for petitioner submits that closure of petitioner's complaint on the basis of so-called settlement is absolutely illegal and arbitrary for the reason that the said 'settlement' cannot in fact termed to be a settlement. There is no agreement or consensus for the same on the part of petitioner who was never called upon at any stage by respondent-bank to be associated with the inquiry, if any. It is further submitted that in case the bank was not at fault where was the occasion for releasing any amount to her as a goodwill gesture. It is

argued that it was incumbent upon the Banking Ombudsman to at least hear the petitioner first and examine the matter on its merit instead of closing petitioner's complaint on the basis of so-called settlement.

6. It is denied that petitioner had ever shared her ATM card credentials with unknown person. It is submitted that her ATM card remained with her at all times.

7. Learned counsel for respondent No.1-Bank submits that no case of petitioner being a victim of online fraud has been proved on record. No cause of action, it is submitted, arises to petitioner to approach this Court. It is the fault of petitioner for not upgrading her contact number with her Saving Bank account for almost five years. Six cash withdrawal transactions were made through petitioner's ATM card in the said period of five months. There is no registered email ID of petitioner where an alert could have been sent. Still as a goodwill gesture, ₹4,00,000/- was released to petitioner. Her complaint has, thus, correctly been closed by the Baking Ombudsman.

8. We have heard learned counsel for parties and have carefully scrutinized the file.

9. Petitioner having saving bank account with respondent No.1 with her earlier account at Rajpura branch with respondent No.1, is a matter of record. It is categoric case of petitioner that she was a victim of online fraud while denying having made any transactions through her ATM card from 01.04.2017 to 30.06.2017. Learned counsel for respondent No.1 on pointed query, does not deny that petitioner was not associated with inquiry, if any, conducted by the Bank which ultimately led to respondent-Bank releasing a sum of ₹4,00,000/- as a goodwill gesture. In the given factual matrix where the so-called matter had been settled without consent and active participation of petitioner in the

proceedings, closure of her complaint by the Banking Ombudsman in a unilateral manner is clearly unjustified.

10. In the given circumstances, it was incumbent upon the Banking Ombudsman to look into the allegations as raised by the complainant/petitioner and thereafter adjudicate upon the same in accordance with law.

11. Keeping in view the facts and circumstances, closure of petitioner's complaint by Banking Ombudsman vide communication dated 15.01.2018 is set aside. Matter is remanded to the Banking Ombudsman to consider the same and adjudicate thereupon in accordance with law after affording proper opportunity of hearing to both the parties.

12. Writ petition is disposed of, accordingly.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

December 20 , 2023.
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No