

# **Smt. Mithlesh Tiwari vs State Of U.P. And Another on 2 January, 2025**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:602

Court No. - 77

Case :- APPLICATION U/S 482 No. - 26558 of 2024

Applicant :- Smt. Mithlesh Tiwari

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

Counsel for Applicant :- Dharmendra Pratap Singh Chauhan

Counsel for Opposite Party :- G.A.

Hon'ble Arun Kumar Singh Deshwal, J.

1. Heard Sri Dharmendar Pratap Singh Chauhan, learned counsel for the applicant and Sri Pankaj Srivastava, learned AGA for the State.
2. The present 482 Cr.P.C. application has been filed to quash the entire proceeding of Complaint No. 186658 of 2023 (Birendra Pratap Singh vs. Smt. Mithlesh Tiwari), u/s 138 N.I. Act, P.S. Fazalganj, District Kanpur Nagar, including the summoning order dated 2.3.2024 as well as bailable warrant dated 8.7.2024.
3. The contention of learned counsel for the applicant is that the applicant is ready to settle the dispute and wants to file compounding application u/s 147 of the Act, 1881 before the trial court. The Apex Court in the case of Damodar S. Prabhu Vs. Sayed Babalal H. reported in 2010 (5) SCC 663 had observed that if the accused person under the proceeding of 138 of the Act, 1881 did not file the application for compounding on the first date or on the second date, then the court may permit

him to file compounding application with the cost of 10% of the cheque amount.

4. Apex court in the case of Damodar S. Prabhu (supra) has issued following guidelines, paragraph no.21 of the said judgement is being quoted as under:

"21. With regard to the progression of litigation in cheque bouncing cases, the learned Attorney General has urged this Court to frame guidelines for a graded scheme of imposing costs on parties who unduly delay compounding of the offence. It was submitted that the requirement of deposit of the costs will act as a deterrent for delayed composition, since at present, free and easy compounding of offences at any stage, however belated, gives an incentive to the drawer of the cheque to delay settling the cases for years. An application for compounding made after several years not only results in the system being burdened but the complainant is also deprived of effective justice. In view of this submission, we direct that the following guidelines be followed:

#### THE GUIDELINES

(i) In the circumstances, it is proposed as follows:

(a) That directions can be given that the writ of summons be suitably modified making it clear to the accused that he could make an application for compounding of the offences at the first or second hearing of the case and that if such an application is made, compounding may be allowed by the court without imposing any costs on the accused.

(b) If the accused does not make an application for compounding as aforesaid, then if an application for compounding is made before the Magistrate at a subsequent stage, compounding can be allowed subject to the condition that the accused will be required to pay 10% of the cheque amount to be deposited as a condition for compounding with the Legal Services Authority, or such authority as the court deems fit.

(c) Similarly, if the application for compounding is made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of costs.

(d) Finally, if the application for compounding is made before the Supreme Court, the figure would increase to 20% of the cheque amount."

5. In view of the above, applicant is permitted to move an application for compounding u/s 147 of the Act, 1881 along with the receipt of deposit of 10% of the cheque amount, payable to Dr. Rajendra Prasad, National Law University, Prayagraj, within a period of 15 days.

6. In case, the applicant files the application along with the aforesaid deposit within 15 days, then the court below will pass order on that application within a period of next one month.
7. For a period of one month or till disposal of the above application of the applicant, no coercive action shall be taken against the applicant.
8. It is made clear, if applicant fails to file the aforesaid application with required deposit within 15 days from today, then the court below will be free to proceed against the applicant.
9. With the aforesaid observations, the present application is disposed of.

Order Date :- 2.1.2025 Vandana