

Omveer vs State Of U.P. And Another on 2 January, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:608

Court No. - 77

Case :- APPLICATION U/S 482 No. - 21646 of 2024

Applicant :- Omveer

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

Counsel for Applicant :- Sanjay Kr. Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Arun Kumar Singh Deshwal, J.

1. Heard Sri Sanjay Kumar Srivastava, learned counsel for the applicant and Sri Sunil Kumar Kushwaha, learned A.G.A. for the State.

2. The present application under Section 482 Cr.P.C. has been filed for quashing the summoning order dated 04.01.2016 as well as entire proceeding of Complaint Case No. 611 of 2015, under Section 138 N.I. Act, P.S. Vijay Nagar, District Ghaziabad, pending in the court of Additional Court, Court No.2, Ghaziabad.

3. Learned counsel for the applicant submits that applicant is ready to settle the dispute and want to file compounding application u/s 147 of the N.I. Act 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 persons under the proceeding of 138 of the N.I. Act 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 N.I. Act 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 above application along with the aforesaid deposit within 15 days then the court below will pass an order on that application as per the law laid down by the Apex

Court in the case of Damodar S. Prabhu (supra), 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 the applicant fails to file the aforesaid application with required deposit within 15 days from today, then court below will free to proceed against the applicant.

9. With the aforesaid observations, the present application is disposed of.

Order Date :- 2.1.2025 A.Kr.