2025:AHC:191641

AFR

RESERVED ON 06.10.2025

DELIVERED ON 31.10.2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 482 No. - 25387 of 2024

Asha Rathor

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Namman Raj Vanshi
Counsel for Opposite Party(s)	:	G.A., Sanjay Kr. Srivastava

Court No. - 80

HON'BLE NAND PRABHA SHUKLA, J.

Counter affidavit filed on behalf of opposite party No. 2, is taken on record.

Heard Sri Namman Raj Vanshi, learned counsel for the applicant, Sri Sanjay Kumar Srivastava, learned counsel for the opposite party no. 2, learned AGA for the State and perused the record.

Learned counsel for the applicant does not propose to file the rejoinder affidavit.

The present application under Section 482 Cr.P.C. has been filed with a prayer to allow this application and to quash the summoning order dated 08.05.2015 as well as non-bailable warrant dated 14.05.2024, 22.05.2024 and 24.06.2024 passed by learned Additional Chief Judicial Magistrate, Court No. 6, Meerut in Complaint Case No. 3833 of 2014 (Dharmpal vs. Chander) under Sections 323, 504, 506, 427 IPC, Police Station Sadar Bazar, District Meerut, pending in the court of Judicial Magistrate-1st, Court No. 2, Meerut.

Briefly stated, the opposite party no. 2 Dharmpal, the complainant moved an application under Section 156(3) Cr.P.C. alleging that registered agreement to sale dated 01.12.2005 was executed fraudulently by the

father of Chander (husband of the applicant). On 03.02.2008 at around 9.00 A.M., the complainant along with his family members was present in his house when his tenant Chander and his wife Asha along with six others embargoed into his house and started abusing the complainant and his family with an intention to get the signatures of the complainant and his father on some blank papers which resulted in lodging of FIR dated 30.03.2011 bearing Case Crime No. 112 of 2011 under Sections 420, 467, 471, 120B, 323, 504, 506, 427 IPC, Police Station Sadar Bazar, District Meerut against the applicant Smt. Asha Rathor, her husband Chander, Sheth Singh and Mahendra Kumar. After the completion of the investigation, a Final Report No. 37 of 2011 dated 06.04.2011 was submitted before the court concerned.

Being aggrieved by the Final Report, the opposite party no. 2 filed a protest petition having Misc. Case No. 751 of 2011 (Dharmpal vs. Chander and others) dated 11.7.2013/21.10.2013 wherein the learned Chief Judicial Magistrate, vide order dated 13.08.2014 allowed the protest petition filed by the first informant/opposite party no. 2 and registered it as a complaint case fixing the date for recording the statement under Section 200 Cr.P.C. Thereafter, the statement of the complainant was recorded on oath under Section 200 Cr.P.C. and statement of witnesses under Section 202 Cr.P.C. namely Nitin and Chetan as P.W.1 and P.W.2 and summoned the applicant along with three others to face trial under Sections 323, 504, 506, 427 IPC.

The learned counsel for the applicant submits that the summoning order dated 08.05.2015 has been passed in a most arbitrary and cursory manner, without application of mind.

It has been submitted by learned counsel for the applicant that the applicant is a widow lady, aged about 64 years and is currently in an ailing condition. It has further been submitted that the co-accused Chander, the husband of the applicant has died and the continuation of the present criminal proceedings is the sheer abuse of the process of the Court.

Further, it has been pointed out that the co-accused Mahendra Kumar has entered into a compromise dated 17.08.2019 with a complainant by filing a compromise deed placed as Annexure No. 13 to the present petition. It

has been stated that the opposite party no. 2 has filed a suit for cancellation of the registered agreement to sale dated 01.12.2005 and the Original Suit No. 1567 of 2008 has been filed by husband of applicant before the learned Court of Civil Judge (Junior Division) Meerut for passing of a decree which are pending decision. It has been stated that the dispute is basically civil in nature and has been given a criminal cloak. The criminal proceedings drawn against the applicant is an abuse of the process of law as well as process of the court as the said proceedings are malicious and vexatious and are purely an outcome of ulterior motive to extort money from the applicant.

Learned AGA for the State and learned counsel for Opposite Party no. 2 could not dispute the aforesaid facts.

The Hon'ble Apex Court in **Usha Chakraborty & Another vs. State of West Bengal & Another, 2023 LiveLaw (SC) 67** has observed that *"the dispute involved is essentially of civil nature. The appellants and the respondents have given a cloak of criminal offence in the issue-coupled with the fact that in respect of the issue involved, which is of civil nature, the respondent had already approached the jurisdictional civil court by instituting a civil suit and it is pending, there can be no doubt with respect to the fact that the attempt on the part of the respondent is to use the criminal proceedings as weapon of harassment against the appellant."*

In view of aforesaid facts and circumstances, the orders dated 08.05.2015 as well as non-bailable warrant dated 14.05.2024, 22.05.2024 and 24.06.2024 passed by learned Additional Chief Judicial Magistrate, Court No. 6, Meerut in Complaint Case No. 3833 of 2014 (Dharmpal vs. Chander) under Sections 323, 504, 506, 427 IPC, Police Station Sadar Bazar, District Meerut are hereby quashed and the matter is remitted back to the Court concerned to pass a fresh order in light of the observations made by Hon'ble Apex Court expeditiously, preferably within a period of six weeks, from the date of production of a certified copy of this order.

With the aforesaid direction, the application u/s 482 Cr.P.C. is **allowed.**

(Nand Prabha Shukla,J.)

October 31, 2025
Puspendra

Digitally signed by :-
PUSPENDRA NARAYAN SINGH
High Court of Judicature at Allahabad