

Court No. - 91

Case :- APPLICATION U/S 482 No. - 15178 of 2024

Applicant :- Jasminder Chahal And 3 Others

Opposite Party :- State Of U.P. And 2 Others

Counsel for Applicant :- Manish Trivedi

Counsel for Opposite Party :- G.A.

Hon'ble Prashant Kumar,J.

1. Heard Shri G.S. Chaturvedi, learned Senior Counsel assisted by Shri Manish Trivedi, learned counsel for the applicants, Shri S.K. Chandraul, learned AGA for the State and perused the record.

2. The instant application under Section 482 Cr.P.C. has been filed by the applicant with the prayer to quash the order dated 17.02.2024 and entire proceedings pertaining to complaint Case No. 84363 of 2022, (Rahul Singh & Another vs. ICICI Bank Ltd. & others), under section 500 I.P.C. of Police Station Nawabganj, Distrit Kanpur Nagar.

3. Learned Senior counsel for the applicants submits that the opposite party no. 2 had took a home loan of Rs. 7,80,000/- from ICICI Bank Ltd. Noida Branch on 29.10.2002. He further submits that though the loan amount with interest was paid, but due to some inadvertence, the loan account was shown as defaulter.

4. The genesis of this case is that the opposite party no. 2 had taken a home loan of Rs. 7,80,000/- from ICICI Bank Ltd. Noida Branch. By application dated 25.04.2007, before leaving India, he desired to pay all dues and requested for foreclosure of the loan account and accordingly the entire amount was paid alongwith the foreclosure charges on 01.05.2007. Thereafter a final closure receipt was issued by the Bank and the mortgaged property was discharged and

VERDICTUM.IN

the original title deed alongwith post dated cheques have been returned to the borrower-opposite party no. 2. However, the bank for the reason best known to them showed the complainant-borrower as defaulter in the CIBIL rating. The bank further went to create a false demand and kept calling and harassing the complainant-borrower. The complainant who was an American citizen and an Overseas Citizenship of India (OCI) card holder, and was away from India, so his family members approached the bank and apprised the Bank officers about the closure of the Bank Account. The fact was brought on the notice of the Bank officers but still just to harass the complainant-opposite party no. 2, the bank filed a civil suit before Civil Judge (S.D.), Kanpur Nagar, bearing Civil Suit no. 146 of 2014 (ICICI Bank Ltd. vs. Rahul Singh). Knowing wholly well that the entire loan amount was deposited, and closure receipt was also issued. After getting the summons, the complainant filed a written statement and submitted all the documents showing that the entire loan amount alongwith interest and foreclosure charges has been paid and the loan account has been closed. In spite of having full knowledge the Bank continued to show that the complainant is defaulter.

5. The complainant in order to set up another business of Warehouse approached some financial institution for a loan, but the same was turned down, as his credit score was not upto the mark because of the high handedness of the ICICI Bank. Wherein he was shown as a defaulter.

6. The complainant had approached the ICICI Bank to sought out this issue but the bank officials for the reasons best known to them kept on harassing the complainant and

VERDICTUM.IN

ensured that the CIBIL rating remained down. As a result, the complainant had lost the business opportunity.

7. Rubbing salt to the wound, the applicants who are officers of the ICICI, Bank appointed recovery agents who started visiting his ancestral house and started creating a scene to malign his social image. The recovery agents kept on visiting the house and make derogatory remarks in the precincts of his house, which seriously damaged his reputation. Because of the high handed attitude of the applicant which they are purposely doing, the complainant was forced to file a criminal complaint being Criminal Complaint No. 84363 of 2022, under sections 193, 383, 406, 471, 499, 500, 420, 120-B I.P.C., before the Metropolitan Magistrate-10, Kanpur Nagar. The learned Magistrate took cognizance and issued summons under section 500 I.P.C. against the applicants. Aggrieved by the summoning order, the applicants herein have filed the instant application challenging the summoning order as well as entire proceedings pertaining to complaint Case No. 84363 of 2022, (Rahul Singh & Another vs. ICICI Bank Ltd. & others).

8. Before proceeding with the matter, upon perusal of the record and submissions advanced by the learned Senior counsel, it transpires that, it is an admitted fact that housing loan was taken by the opposite party no. 2, which was paid by the opposite party no. 2 along with the foreclosure charges, but the applicants herein who are officers of the ICICI Bank knowing fully well that the loan account has been closed and entire amount has been paid but purposely kept showing the opposite party no. 2 as a defaulter. In the year 2013, the Bank Officers had engaged two recovery agents,

VERDICTUM.IN

who were sent to the house of the opposite party no. 2, when he was in America. These recovery agents visited the ancestral house of the complainant-opposite party no. 2 and created a scene made derogatory statements which impacted the social status of the complaint-opposite party no. 2.

9. The Hon'ble Supreme Court in the matter of **ICICI Bank Ltd. Vs. Prakash Kaur** reported in **(2007) 2 SCC 711**, had categorically held that the Bank will not use the services of the recovery agents to recover the Bank loans and they have to follow the procedure as laid down under the law.

10. Before advertng into the merits of the matter, this Court directs the Chairman of the ICICI Bank to file a personal affidavit stating as to how, his bank, and the officials of his bank have engaged the recovery agents, in spite of the clear direction of the Hon'ble Supreme Court, not to do so. The officers of the ICICI Bank were very well aware of the fact that they cannot engage any recovery agent, and yet they had engaged the services of recovery agents in the year 2013, which is 6 years after passing of the judgement by the Hon'ble Supreme Court.

11. As the Chairman, ICICI, Bank has not been arrayed as party, learned counsel for the applicants is permitted to implead the Chairman, ICICI, Bank as applicant no. 5 in this application, forthwith.

12. The Chairman, ICICI, Bank may also clarify as to how, a civil suit was filed against the complainant-opposite party no. 2, especially when the entire loan amount alongwith interest and foreclosure charges were paid, and why the

VERDICTUM.IN

complainant was put to the harassment. He may also state as to how, his Bank was still taking the services of the recovery agents when the same was clearly barred by the Hon'ble Supreme Court.

13. List this matter on **10th July, 2024, as fresh.**

Order Date :- 15.5.2024

Bhanu