

Court No. - 90

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 2835 of 2024

Applicant :- Shakti

Opposite Party :- State of U.P.

Counsel for Applicant :- Dheeraj Pandey, Nand Kishor Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Vikram D. Chauhan, J.

1. Ms. Shilpa Ahuja, Advocate initially filed a supplementary affidavit dated 24.2.2024.

2. Perusal of aforesaid supplementary affidavit would demonstrate that there is no sign of deponent in the supplementary affidavit. Even Sri Nand Kishor Mishra, learned counsel for the applicant has not signed the affidavit. The affidavit has been sworn before the Oath Commissioner, Sri Kamlesh Singh, Advocate, Registration No.JP00527/2021.

3. Ms. Shilpa Ahuja, Advocate was directed to call Sri Nand Kishor Mishra, learned counsel for applicant, who has appeared before this Court and on a pointed query being made as to how the aforesaid affidavit has been executed when there is no sign of Deponent or Advocate, identifying the deponent, learned counsel for the applicant submits that on perusal of affidavit there is fault in affidavit.

4. This Court is finding that Oath Commissioners are executing affidavits without there being signature of Deponent and proper identification by Advocate. Such a conduct of Oath Commissioners are not acceptable.

5. Learned counsel, who is appearing for the applicant is prima facie found not to be vigilant in his duties. The aforesaid conduct of Oath Commissioner is interfering in the administration of justice, as the affidavits which are being filed are not properly sworn and is abuse of process of law.

6. It is to be noted that Oath Commissioners are appointed by the Competent Authority under Chapter IV Rule 1 of Rules of the Court. The appointment of Oath Commissioners by the Competent Authority are required to be of highest standard. It is found that Oath Commissioners being appointed are not maintaining the

standard of professionalism and are executing affidavits without signature of the Deponent in the affidavits. In the past occasions, the matter was referred to Competent Authority, however, despite reference, it has been informed that no action was taken in the previous matter. Inaction on the part of Competent Authority is resulting in encouragement to Oath Commissioners in executing affidavits without signature of Deponent. The present case is glaring example as to how Registry is not able to control the Oath Commissioners and the Competent Authority is not taking cognizance of the manner in which Oath Commissioners are acting.

7. Registrar General of this Court on several occasions have been informed that Oath Commissioners are not working in accordance with law. This Court has left no other option but to initiate proceedings.

8. Registrar General of this Court is directed that all the affidavits i.e. supplementary affidavit, counter affidavit, rejoinder affidavit etc. filed by the parties in the Registry shall be scrutinized by the Registry and, in case, there is any defect in the affidavit then a report in this respect shall be submitted. The defect any found by the Registry, an opportunity would be given to respective counsel for removal of defect. Where the defects are not removed by the respective counsel within time granted by the Registry, the aforesaid affidavit shall be rejected by the Registrar General or any Registrar nominated by him. In case, any objection is raised by the counsel to the defect pointed out by the Registry, the objection shall be received by the Registry and shall be placed before the Court concerned.

9. It is made clear that the Registrar General of this Court shall ensure that there is no interference in administration of justice on account of working of Oath Commissioners.

10. It is also directed that in future, no Oath Commissioner shall be appointed against whom any observation with regard to his working has been made by any Court nor renewal of any such Oath Commissioners, shall be permitted. Such renewal, re-appointment or appointment shall only be made with the leave of the Court concerned, who has made observation.

11. Registrar General of this Court shall also ensure that Oath Commissioners discharge their duties by way of highest standard and any laxity on the part of Oath Commissioners shall be treated as misconduct and in this respect, the Competent Authority shall

immediately take steps whenever such misconduct is brought to the notice of the Competent Authority.

12. Oath Commissioner Sri Kamlesh Singh shall file his affidavit within ten days from today before the Registrar General of this Court to show cause as to why he should not be removed from Oath Commissioner. Registrar General of this Court shall place the affidavit of Sri Kamlesh Singh before this Court on the next date.

13. Since the Oath Commissioner Sri Kamlesh Singh is prima facie not discharging his duty properly, he is suspended from working as Oath Commissioner till the next date fixed. Sri Kamlesh Singh shall deposit the coupon issued to him with the Registrar General forthwith and shall not discharge duties of Oath Commissioner till next date.

14. List this case on 4th April, 2024 as fresh.

15. Registrar General of this Court shall submit compliance report before this Court on the next date.

Order Date :- 14.3.2024

D. Tamang