

Court No. - 93

Case :- APPLICATION U/S 482 No. - 22217 of 2007

Applicant :- Suresh Chandra Yadav

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

Counsel for Applicant :- Indra Mani Tripathi, Abhishek Kumar Yadav, Ravindra Nath Yadav

Counsel for Opposite Party :- Govt. Advocate, Aklank Jain

Hon'ble Arun Kumar Singh Deshwal, J.

1. Sri Ravindra Nath Yadav, learned counsel for the applicant as well as Sri Rajeev Kumar Singh, learned AGA for the State are present.
2. No one appears on behalf of opposite party no.2, though, the Vakalatnama has been filed by Sri Aklank Jain as well as Sri Arun Srivastava.
3. The present 482 Cr.P.C. application has been filed to quash the entire proceedings of Case No.1023 of 2006, under Sections-138 and 142 of Negotiable Instruments Act, 1881 (hereinafter referred to as the 'Act, 1881'), pending in the court of Judicial Magistrate I, Budaun.
4. Contention of learned counsel for the applicant is that admittedly cheque in question was dishonoured on 23.06.1998 and, thereafter, notice was sent to the applicant on 17.07.1998 and present complaint was filed on 07.09.1998 which was almost after 52 days from the date of sending notice. Therefore, cognizance on the aforesaid complaint is barred by Section-142(1)(b) of the Act, 1881.
5. From perusal of record and after hearing the parties, in the impugned complaint as well as in the statement of

opposite party no.2, no explanation was given for filing time barred complaint, even the Chief Judicial Magistrate, Badaun did not record any satisfaction for condoning the delay in filing the complaint as required by proviso 142(1)(b) of the Act, 1881.

6. In view of the above fact, this court is satisfied that the complaint was filed beyond the prescribed period and court has taken cognizance contrary to the Section-142 of the Act, 1881, therefore, proceeding of Case No.1023 of 2006, under Sections-138 and 142 of Negotiable Instruments Act, 1881 (hereinafter referred to as the 'Act, 1881'), pending in the court of Judicial Magistrate I, Budaun, is hereby quashed.

7. However, quashing of the impugned proceeding will not affect the right of opposite party no.2 to file another complaint along with proper explanation of delay if same is permissible under the law.

8. Accordingly, the present application is **allowed**.

Order Date :- 30.10.2023

S.Chaurasia