

Court No. - 88

Case :- APPLICATION U/S 482 No. - 26423 of 2023

Applicant :- Ram Kishor

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

Counsel for Applicant :- R.K. Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh,J.

Heard learned counsel for the applicant and learned A.G.A. for the State of U.P.

The instant application under Section 482 Cr.P.C. has been preferred by the applicant seeking direction to learned Additional Civil Judge (Jr.Div.)-5, Kanpur Nagar to decide the discharge application under Section 239 Cr.P.C. dated 23.09.2014 moved by the applicant in Criminal Case No. 471 of 2013 (*State of U.P. vs. Shiv Kishore and another*) arising out of Case Crime No. 212 of 2012, U/s 420 I.P.C., Police Station Bithoor, District Kanpur Nagar as expeditiously as possible.

On 23.08.2023, this Court has passed the following order:-

"It is submitted by learned counsel for the applicant that the applicant-Ram Kishor is accused in this case and he has filed discharge applicant, reference of the same is mentioned in the order dated 23.09.2014. The said application is still pending and has not yet been decided by the trial Court.

Let a report be called for from the concerned Presiding Officer with regard to aforesaid submission of learned counsel for the applicant. The report shall also indicate as to why, till date, discharge application of the applicant has not been decided.

Put up this case as fresh on 14.09.2023 along with report of concerned Presiding Officer."

Pursuant to aforesaid order of this Court dated 23.08.2023, learned Additional Chief Metropolitan Magistrate, Court No. 1, Kanpur Nagar submitted his report dated 05.10.2023 which is on record. In the said report, it is mentioned that the record of the

aforesaid case was received in his court on 27.07.2023, for the first time, after being transferred from the court of Additional Civil Judge (Jr.Div.)-5, Kanpur Nagar. The matter was pending since long on account of non-submitting the death report of accused-Shiv Kishor. It is also mentioned that after the transfer of the record to his Court, argument on behalf of the accused was not done on the discharge application, therefore, the same could not be disposed of. It is also mentioned that 25.10.2023 is the next date fixed in the matter.

Learned A.G.A. submits that no useful purpose would be served in keeping this matter pending before this Court.

In view of the above, the instant application is ***disposed of*** with a direction that on the next date i.e. on 25.10.2023 concerned court below shall heard the argument of learned counsel for the accused-applicant and decide the discharge application in accordance with law. It is made clear that in case no one appears on behalf of the accused-applicant to press the discharge application, in that case also, the concerned Magistrate shall pass a reasoned order disposing the discharge application of the applicant.

Learned counsel for the applicant is directed to file a copy of this order before the concerned court below within a week for necessary information and compliance.

Order Date :- 13.10.2023

Saurabh