

Court No. - 88

Case :- APPLICATION U/S 482 No. - 33689 of 2023

Applicant :- Arun Kumar Jain

Opposite Party :- State Of U.P. And 4 Others

Counsel for Applicant :- Daya Shanker Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh,J.

1-Heard learned counsel for the applicant as well as learned Additional Government Advocate of State of U.P./opposite party no.1 and perused the record.

2-The instant application under Section 482 Cr.P.C. has been preferred by the applicant seeking direction to decide Transfer Application No. 92 of 2023 under Section 408 Cr.P.C. (Arun Kumar Jain Vs. Yaseen and others), pending in the court of learned Sessions Judge, Baghpat as early as possible.

3-Main substratum of argument of learned counsel for the applicant is that there are two cross cases, which were registered against each other and aforesaid two cases are pending in different courts. The applicant has filed Transfer Application No. 92 of 2023 under Section 408 Cr.P.C. (Arun Kumar Jain Vs. Yaseen and others) on 30.05.2023 seeking transfer of Criminal Case No. 2097 of 2005 (State Vs. Yaseen and others) from the court of Chief Judicial Magistrate, Baghpat to the court of Additional District Judge/F.T.C.-II, Baghpat. He also submits that several dates have been fixed in the aforesaid transfer application but till date, the transfer application has not been decided.

4-Per contra, learned A.G.A. representing the State opposed the prayer of the applicant by contending that perusal of order sheet shows that the applicant is himself responsible for delay.

5-Having heard the submissions of learned counsel for applicant, learned A.G.A. and perusing the order sheet, I find that on 28.06.2023 date was fixed for hearing of the said transfer application,

but none appeared on behalf of either of the parties. Thereafter, further 11.07.2023 was the date fixed, but on that date, applicant counsel was present but opposite parties were not present. Thereafter, again 21.07.2023 was the date fixed, but on that date also, none appeared on behalf of either of the parties. From the order sheet, it is apparently clear that the hearing of transfer application is being lingered on, on account of non cooperation of parties concerned. Under the facts of the case, this Court is of the view that the applicant cannot be permitted to take advantage of his own fault, hence, prayer of the applicant is not liable to be allowed.

6-In view of the above, the application under Section 482 Cr.P.C. lacks merit and is, accordingly, ***dismissed***.

Order Date :- 22.11.2023

Kashifa