

**Court No. - 91**

**Case :-** APPLICATION U/S 482 No. - 40622 of 2023

**Applicant :-** Devraj Saini

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

**Counsel for Applicant :-** Bharat Singh

**Counsel for Opposite Party :-** G.A.

**Hon'ble Gajendra Kumar,J.**

Heard learned counsel for the applicant as well as learned A.G.A. for the State and perused the record.

This application under Section 482 Cr.P.C. has been filed by the applicant with the prayer to quash the order dated 12.10.2023 passed by learned Sessions Judge, Moradabad, in Case No. 1619 of 2022 (State vs. Devraj Saini), arising out of Case Crime No. 204 of 2022, under Section 307 IPC, Police Station Civil Lines, District Moradabad and further prayed to issue a direction to the court below to give opportunity to the applicant to produce remaining three witnesses and also to record the statement of the applicant under Section 315 Cr.P.C.

Submission of learned counsel for the applicant is that the case was pending for recording the defence evidence. After conclusion of the prosecution evidence, an application was moved on behalf of accused for recording the statement of accused under Section 315 Cr.P.C. as well as other four witnesses. But statement of only one defence evidence as D.W. 1 has been recorded on 10.10.2023 and the date was fixed on 12.10.2023 for recording the statement of rest of the defence evidence. On that date i.e. 12.10.2023 the accused was not present due to some unavoidable circumstances and an application for exemption was moved, which was allowed and the opportunity of production of defence evidence was closed by the court below vide order dated 12.10.2023. The applicant has made a reference to the order dated 24.03.2023 passed by coordinate Bench of this Court in which the Court has made the following direction:-

*"The trial court is directed to conclude the trial within one year from the date of production of certified copy of this order before him."*

It is submitted that still ample time to reach the stipulated period fixed by the Court, but the trial court in hurried manner closed the opportunity of defence. The prayer has been made for giving one opportunity for production of defence witnesses for recording their statements.

Per contra, learned AGA opposed the prayer of the applicant but could not dispute the aforesaid facts and submitted that one opportunity can be given to the applicant. One year as has been fixed for conclusion of the trial by this Court is yet to be completed in the month of March, 2024.

In view of the facts and circumstances of the case, this application is disposed of with a direction to the court below to give only one opportunity to the applicant to appear for recording the statement of the defence witnesses and his statement as defence. The applicant shall appear before the trial court and the trial court shall fix a date immediately for recording the statement of the applicant as well as other witnesses.

**Order Date :- 16.11.2023**

v.k.updh.