

Court No. - 93

Case :- APPLICATION U/S 482 No. - 42794 of 2023

Applicant :- Dayaram Vishwakarma @ Dayaram Sharma

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

Counsel for Applicant :- Manoj Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Manoj Bajaj,J.

Applicant being accused has approached this Court through this application under Section 482 Code of Criminal Procedure seeking quashing of the proceedings of Complaint Case No. 14 of 2016, titled *Soniram Vs. Dayaram Vishwakarma*, under Section 138 Negotiable Instruments Act, 1881, Police Station Kotwali, District Lalitpur and the impugned non bailable warrants/ proclamation proceedings dated 5.8.2022 passed by Special Judicial Magistrate, Lalitpur.

Learned counsel for applicant submits that for the alleged dishonour of cheque worth Rs.50,000/-, the opposite party no.2 filed the subject complaint, which is pending adjudication and through the impugned order dated 5.8.2022, the court has issued warrants against him and also initiated proceedings under Section 82 Cr.P.C. to secure his presence. He submits that applicant is willing to settle the dispute and previously applicant had filed a petition bearing Application U/S No. 33010 of 2016 seeking the similar relief by challenging the issuance of non bailable warrants issued vide order dated 23.9.2016, and this Court had disposed of the said petition with a direction to the applicant to deposit a sum of Rs.50,000/- in the court of Magistrate within three weeks. He submits that the said order dated 16.2.2017 was not complied with, and prays that it would be in the interest of justice, if, the impugned order is set aside the applicant is again allowed to compound the offence.

After hearing the learned counsel and considering his submissions, this Court finds that applicant has never appeared in the complaint case as conceded previously also his presence was sought to be secured through issuance of non bailable warrants and despite the indulgence shown by this Court through order dated 16.2.2017, he has failed to comply with his own undertaking. Again the similar stand is taken by the applicant, but admittedly, no application with regard to the compounding of the offence has been made by the applicant before the Magistrate / trial court.

At this stage, learned counsel states that his application seeking extension of time for compliance of the order dated 16.2.2017 is also pending adjudication.

Be that as it may, if, actually the applicant is willing to compound the offence, he can move an appropriate application before the trial court, therefore, this Court does not find any reason to exercise the inherent powers under Section 482 Cr.P.C.

The application fails and is dismissed.

Order Date :- 6.12.2023
P.S.Parihar