

Court No. - 92

Case :- APPLICATION U/S 482 No. - 42915 of 2023

Applicant :- Rajnish Shukla

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

Counsel for Applicant :- Rajnish Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Anish Kumar Gupta,J.

1. Heard Sri Rajnish Shukla, the applicant appearing in person and Sri Rajiv Kumar Singh, learned AGA for the State.

2. The instant application under Section 482 Cr.P.C. has been filed seeking a direction to the court below to decide the Complaint Case No. 26814 of 2021 (Rajnish Shukla vs. Sanjay Kumar Mishra), under Section 138 of Negotiable Instrument Act, pending in the court of Additional Chief Judicial Magistrate-3rd, Gorakhpur, expeditiously within stipulated period.

3. Sri Rajnish Shukla, the applicant appearing in person submits that the instant application under Section 138 of Negotiable Instrument Act was filed by the applicant on 28.06.2021 and since the it is pending and it could not be decided due to non-cooperation of the opposite party no.2. From the order sheet of the trial court,it is apparent that repeatedly non-bailable warrants were issued against the opposite party no.2, despite that he continuously remains absent and subsequently, on 17.08.2023, he appeared and was granted bail and the matter was referred for mediation. However, due to non-cooperation of the opposite party no.2, the mediation proceedings could not begin and subsequently, the matter was fixed for recording of the evidence on behalf of the opposite party no.2. Again, he is avoiding the process and is not cooperating in the trial.

4. The applicant appearing in person further submits that in terms of Section 143 of Negotiable Instrument Act, the proceedings are expected to be decided expeditiously and an endeavor is required to be made to conclude such proceedings within a period of six months. However, more than two and half years have passed and the proceedings are still pending due to non-cooperation of the opposite party no.2.

5. Learned AGA has no objection to the aforesaid prayer as made by the applicant.

6. In view of the order proposed to be passed herein, no useful purpose would be served by putting the opposite party to notice and keeping this application pending before this Court. However, in case the opposite party feels aggrieved by the order his/her right to seek modification/variation of the order is being kept reserved.

7. Considering the fact and circumstances and without expressing any opinion on the merits of the case, this application is finally **disposed of** with a direction to the court below i.e. Additional Chief Judicial Magistrate-3rd, Gorakhpur to decide the Complaint Case No. 26814 of 2021 (Rajnish Shukla vs. Sanjay Kumar Mishra), under Section 138 of Negotiable Instrument Act, in accordance with law, as expeditiously as possible positively within a period of three months from today.

8. It is made clear that no unnecessary adjournment shall be granted and if adjournment at all has to be granted, it shall not exceed a period of one or two days. The case shall be decided strictly in regard to the schedule of time indicated hereinabove.

9. Registrar Compliance is directed to forward a copy of this order to the Additional Chief Judicial Magistrate-3rd, Gorakhpur within seven days.

Order Date :- 14.12.2023

Ashish Pd.