

Court No. - 89

Case :- APPLICATION U/S 482 No. - 44792 of 2023

Applicant :- Ravi Kant Sharma

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

Counsel for Applicant :- Jayant Prakash Singh

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma,J.

1. Heard learned counsel for the applicant and learned AGA for the State.
2. The present 482 Cr.P.C. application has been filed to quash the impugned order dated 24.11.2023 in Complaint Case No.1751 of 2014 (Mohan Lal Garg vs. Ravi Kant Sharma), under section 138 Negotiable Instrument Act, District Agra, pending in the court of Special Judge, Negotiable Instrument Act, Agra.
3. Learned counsel for the applicant has challenged the order passed on 24.11.2023 by which the application of the applicant to cross examine the complainant with cost has been rejected. Learned counsel for the applicant submits that order passed by Special Court, Negotiable Instrument Act is without application of judicial mind, rejected the application of the applicant. Learned Special Court, Negotiable Instrument Act has not considered the relevancy of examination of the complainant which are required for just decision of the case, cross examination of the complainant is must and necessary to the just decision of the case.
4. *Per contra*, learned A.G.A. vehemently opposed the contention of learned counsel for the applicant.
5. Considered the arguments raised by learned counsel for the applicant and perused the entire record. From the order, it is apparent that for cross examination date was fixed 02.01.2020, thereafter various dates between 02.01.2020 to 25.07.2022 was fixed but applicant did not examine the complainant. By order dated 25.08.2022 on cost of Rs.1,000/- application of the applicant was allowed to cross examine the complainant but applicant did not cross-examine and on 06.10.2022, he moved exemption application, which was allowed on cost of Rs.300/-. Thereafter, on 02.11.2022 & 25.07.2022, applicant did not examine the complainant, therefore, Court by order dated 02.11.2022 closed the prosecution witness and started evidence under section 313 Cr.P.C. and date was fixed for 14.12.2022 but applicant did not appear and on 14.12.2022 non-bailable warrant was issued against the applicant, again on 04.02.2023, applicant-accused was permitted to cross examine the complainant. Thereafter, three dates i.e. 18.03.2023, 05.04.2023 & 26.04.2023 were fixed for cross examination but applicant did not examine the complainant and on 26.04.2023 Court closed the opportunity to cross

examine the complainant and fixed 01.05.2023 for proceeding under section 313 Cr.P.C. Thereafter, applicant moved application on 01.05.2023 for cross examine the complainant and the application of the applicant-accused was allowed on 29.09.2023 with cost of Rs.1,000/- and date was fixed 17.10.2023. Thereafter applicant did not appear and did not examine complainant and date was fixed 10.11.2023, again applicant did not appear and thereafter court closed the opportunity to the applicant-accused to cross examine the complainant. Thereafter, again applicant moved present application on 16.11.2023 which was rejected. From the record, it appears that trial court has given various opportunity to applicant to cross examine the complainant. The act of the applicant prima-facie shows that the applicant intentionally did not examine the complainant with intention to linger on the proceedings. The order passed by learned magistrate is just and proper and does not require any interference.

6. In view of the above, this Court does not find any ground to interfere at this stage. The present 482 application is **dismissed** with the aforesaid observation.

Order Date :- 15.12.2023
SKD