

Court No. - 12

Case :- APPLICATION U/S 482 No. - 9290 of 2023

Applicant :- Shaksham Kumar Srivastava

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Deptt. Of Home Lko. And Another

Counsel for Applicant :- Jay Prakash Singh

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh,J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the material brought on record.
2. This application has been filed for quashing the order dated 15.07.2023 passed in Complaint Case No. 155 of 2016, (Shaksham Kumar Srivastava Vs. Harish Upadhyaya), under Section 138 N.I. Act, P.S. Kotwali Nagar, District Ayodhya.
3. Learned counsel for the applicant submits that due to negligence of counsel appearing for the applicant, the complaint case was dismissed on 15.07.2023 as he failed to appear before the court below. It is, thus, submitted that the indulgence of this Court is necessary.
4. Learned A.G.A. opposes the prayer of the applicant and submits that as neither the applicant nor his counsel appeared before the court below on repeated call and since no one has put in appearance, the complaint case was dismissed for want of prosecution.
5. Considering the arguments advanced by the learned counsel for the applicant, learned A.G.A. and going through the contents of the application as well as other relevant documents, it is evident that the complainant/applicant was appearing before the court below either himself or through his counsel. It is also evident that on 15.07.2023, neither the applicant nor his counsel could appear before the court below and the complaint case was dismissed for want of prosecution.

6. In view of above facts and circumstances, this Court is of the view that the impugned order has been passed without application of mind and the same is liable to be set aside and is hereby set aside.

7. The application stands allowed.

8. The court concerned is directed to consider and decide the matter in accordance with law.

Order Date :- 19.12.2023

VKS