

Court No. - 12

Case :- APPLICATION U/S 482 No. - 11121 of 2023

Applicant :- Shalini Shukla

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Home Civil Sectt. Lko And 2 Others

Counsel for Applicant :- Pramod Kumar Soni, Ved Prakash Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh, J.

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

2. The present application has been filed for quashing the order dated 15.06.2023 passed by learned Additional Judge, Court No.09, Lucknow in Complaint Case No.8116 of 2018; for directing the concerned court to restore the case to its original number.

3. Learned counsel for the applicant submits that complaint case was filed by applicant U/s 138 of N.I. Act, in which, summoning order was passed by learned trial court on 19.01.2019 which was challenged before revisional court. He further submits that complaint was filed by applicant before court concerned which was registered as Case Crime No.599 of 2019. He further submits that the revision was wrongly numbered as crl. misc. case and this fact was mentioned in the order dated 27.01.2020 passed by revisional court, in which, proceeding was stayed. It is further submitted that learned trial court dismissed the complaint of applicant for want of prosecution in the most mechanical manner, thereafter, complainant appeared before the court concerned and filed recall application but the same was not accepted. It is, thus, submitted that indulgence of this Court is required.

4. Learned A.G.A. opposes the prayer of applicant and submits that there is no evidence that recall application was filed before the competent court.

5. Considering the submissions of learned counsel for the applicant, learned A.G.A. and going through the contents of application, other relevant documents, order dated 27.01.2020 passed by learned Additional Sessions Judge/Special Judge, P.C. Act, Lucknow in criminal revision; it is evident that

revisional court has stayed the proceeding of the complaint and next date is fixed as 02.12.2023. As it is obligatory on the part of trial court to defer the matter till the decision of revision but trial court committed error in dismissing the said complaint for want of prosecution.

6. In view of above, this Court is of the view that the present application is **allowed** and order dated 15.06.2023 is hereby **set aside**.

7. The complaint in question is restored to its original number.

8. Office is directed to communicate this order to trial court, forthwith.

Order Date :- 9.11.2023

Arpan