

Court No. - 23

Case :- APPLICATION U/S 482 No. - 11933 of 2023

Applicant :- Asif Rabbani Khan

Opposite Party :- State Of U.P. Thru. The Prin. Secy. Deptt. Of Home, Lko. And Another

Counsel for Applicant :- A.Z. Siddiqui

Counsel for Opposite Party :- G.A.

Hon'ble Ajai Kumar Srivastava-I,J.

Heard Sri A.Z. Siddiqui, learned counsel for the applicant and learned A.G.A. for the State.

In view of the order proposed to be passed, notice to opposite party no.2 is dispensed with.

The instant application under Section 482 Cr.P.C. has been filed *inter alia* praying for following reliefs :-

"(i) To quash and set aside the order dated 03.11.2023 passed by Chief Judicial Magistrate, Balrampur, while transferring the matter to the Court of Civil Judge (Senior Division/FTC/ACJM), Balrampur.

(ii) To direct the District and Sessions Judge, Balrampur to pass appropriate order to adjudicate or transfer to any other court of equal jurisdiction to decide the matter within the stipulated time as directed by this Hon'ble Court as expeditiously as possible or the time prescribed by this Hon'ble Court in the matter, Asif Rabbani Khan vs. Mohd. Ahmad Khan, complaint case no.604566 of 2022 (Old No.3305 of 2018)."

At the outset, learned counsel for the applicant has very fairly submitted that he does not want to press this application so far as prayer no. (i) is concerned, regarding the quashing of the order dated 03.11.2023. However, his sole grievance is that the

matter pertaining to Section 138 of the Negotiable Instruments Act, which ought to have been decided within the period stipulated under Section 143(3) of Negotiable Instruments Act, has not been decided till date. Therefore, he has prayed to issue a direction to dispose of the aforesaid case in a time-bound manner.

Learned A.G.A. for the State has opposed the prayer, however, he could not dispute the fact that the aforesaid case should be decided expeditiously keeping in view the legislative mandate as contained in Section 143(3) Negotiable Instruments Act.

Having heard learned counsel for the applicant, learned A.G.A. for the State and upon perusal of records, it transpires that the Complaint case no.604566 of 2022 (Old No.3305 of 2018), under Section 138 Negotiable Instruments Act is pending since 2018 and the same has not been finally decided till date despite the legislative mandate as contained in Section 143(3) Negotiable Instruments Act. This Court is also oblivious of the fact that the aforesaid complaint case is kept pending despite specific direction of this Court issued vide order dated 07.04.2022, passed in Transfer Application (Criminal) No.53 of 2020.

Thus, having regard to the aforesaid overall facts and circumstances and to secure ends of justice, the present application is finally **disposed of** with the direction to the concerned court below to dispose of the aforesaid criminal case bearing Complaint case no.604566 of 2022 (Old No.3305 of 2018), under Section 138 Negotiable Instruments Act expeditiously, within a period of two months from today, keeping in view the provisions contained in Section 143(3) Negotiable Instruments Act and also the fact that the direction to decide the same has already been issued by this Court even

earlier vide order dated 07.04.2022, passed in Transfer Application (Criminal) No.53 of 2020, without granting any unnecessary adjournment to the parties, in accordance with law if there is no other legal impediment.

A copy of this order be sent to Sessions Judge, Balrampur for information.

A copy of this order shall also be sent to Chief Judicial Magistrate, Balrampur so that in case the instant criminal case is found pending in a court where there is no presiding officer, he may transfer the same to any other competent court to dispose of it in the light of the direction given hereinabove.

Order Date :- 8.12.2023

A.Dewal