



2025:UHC:2432

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc Application No. 275 of 2025

02 April, 2025

Neeraj Kumar

--Petitioner

Versus

Narendra Narula

--Respondent

Presence:-

Mr. Vaibhav Singh Chauhan, Advocate for the petitioner.

Mr. Chandra Sekhar, learned counsel for the respondent.

Hon'ble Vivek Bharti Sharma, J. (Oral)

This is a petition under Section 528 of the B.N.S.S. preferred against the impugned order dated 04.02.2025, passed by learned 2nd Judicial Magistrate, District Haridwar in Complaint Case No.3343 of 2023 (old no.2355 of 2022) in "*Narendra Narula Vs. Neeraj Kumar*" U/s 138 of the Negotiable Instruments Act, 1881 (for short "*N.I. Act*") whereby the application U/s 311 of Cr.P.C. filed by the petitioner has been dismissed.

2. Learned counsel for the petitioner / accused would submit that on 09.10.2024 opportunity to cross-examine the complainant was closed and the case was listed on 13.11.2024 for evidences of the petitioner /accused; that, on 13.11.2024 the petitioner /accused closed his evidences and the case was listed on 20.12.2024 for recording of statements under Section



313 of the Cr.P.C.; that, on 13.01.2025, the petitioner /accused filed an application under Section 311 of the Cr.P.C.

Learned counsel for the petitioner /accused would submit that the rejection order dated 04.02.2025 is unsustainable in the eyes of law because the opportunity to cross-examine the complainant could have been given to the petitioner/accused.

3. Per contra, learned counsel for the respondent /complainant opposed this contention of learned counsel for the petitioner /accused on the ground that the petitioner /accused was given repeated opportunities, however, he did not cross-examine the respondent/complainant and the application under Section 311 of the Cr.P.C. was moved when the case was posted for recording of statement U/s 313 of the Cr.P.C.

4. Heard and perused the record in the light of the submissions made and considered.

5. Perusal of the order sheets would reflect that the affidavit in evidence was filed by the respondent/complainant on 23.03.2024 and the case was posted for cross-examination of the complainant on 04.05.2024. On 04.05.2024, the petitioner /accused sought adjournment and the same was allowed, thereafter, adjournment was again on the next date i.e.



2025:UHC:2432

15.06.2024. On 08.07.2024, the petitioner /accused sought adjournment and also on 24.08.2024 adjournment was granted to the petitioner/accused, however, at the cost of ₹300/-.

On 09.10.2024, neither the cost was paid nor the respondent/complainant was cross-examined and by a detailed order the opportunity to cross-examine the respondent/complainant was closed and the case was listed on 13.11.2024 for evidence of the petitioner /accused. On 20.12.2024, the case was listed for recording of statements under Section 313 of the Cr.P.C. All these facts have been given by the learned Trial Court in the impugned order.

6. At this stage, learned counsel for the petitioner /accused prays that the application may be allowed after imposing cost on the petitioner /accused.

7. Learned counsel for the respondent /complainant would submit that the opportunity to cross-examine was given at the cost of ₹300/- even that cost was not paid, therefore, there is no possibility that the petitioner /accused would comply with the direction of this Court.

Learned counsel for the respondent/complainant would further submit that this petition is nothing but a delaying tactic; that, the wife of



2025:UHC:2432

the respondent/ complainant is suffering from cancer and the respondent /complainant is in dire need of money for her treatment; that, this amount was given through bank transaction during Covid-19 as the petitioner /accused was in need of money and both the respondent and the petitioner were on friendly terms; that, grounds taken in petition are frivolous and an attempt to mislead the process of law, therefore, this petition deserves to be dismissed.

8. Having considered the submissions of the counsel for the parties and after going through the record available on file, this Court is of the considered view that it is not a fit case, in which, the High Court should invoke its inherent jurisdiction under Section 528 of B.N.S.S.

9. In view of the above, this Court is not inclined to interfere in the impugned order. Accordingly, present C528 petition lacks merits and the same is hereby dismissed in *limine*.

(Vivek Bharti Sharma, J.)

02.04.2025

SS