



HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc Application No. 564 of 2025

Gopal Rai

.....Petitioner

Versus

Ravi Chawala

.....Respondent

Presence:-

Mr. Himanshu, learned counsel for the petitioner.

Dated : 06.05.2025

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

This petition is being filed by the petitioner seeking a direction from this Hon'ble Court to the learned Additional Chief Judicial Magistrate, Roorkee, District Haridwar, to expeditiously decide and conclude the proceedings in Complaint Case No. 2248 of 2022, pending under Section 138 of the Negotiable Instruments Act, 1881, within a time frame to be stipulated by this Hon'ble Court.

2. Learned counsel for the petitioner would submit that the petitioner/complainant filed Complaint Case No. 2248 of 2022 on 02.12.2022 before the Court of the learned Additional Chief Judicial Magistrate, Roorkee, District Haridwar, under Section 138 of the Negotiable Instruments Act, 1881, seeking recovery of the cheque amount of ₹1,50,000/- from the respondent; that, the learned Magistrate initially fixed the matter for recording the complainant's statement, and thereafter, vide order dated 01.09.2023, summoned the respondent to appear before the Court; that, despite the summoning order, the respondent failed to appear, leading the learned Magistrate to issue a bailable warrant against him on 09.09.2024. Subsequent bailable warrants were also issued on 29.11.2024, 15.02.2025, and 29.04.2025; however, the warrants could not be executed.

He would further submit that due to non-execution of



the warrants and the absence of the respondent, no effective hearing could take place in the matter; that, hence, prayer for directions to the court concerned for early and expeditious disposal of the aforementioned complaint case, in the interest of justice.

3. This Court cannot be oblivious of the fact that there is huge pendency and backlog of cases in courts and any direction for expeditious disposal will further overburden the court below. By issuing direction for expeditious disposal, one case cannot be prioritized over others.

4. Hon'ble Supreme Court in re ***"M. Gopalakrishnan and others vs. Pasumpon Muthuramalingam and another (2022) SCC Online SC 1968"*** has observed as follows:-

"..... ordinarily, before passing any such order for expeditious proceedings in a particular case (which might appear to be rather of innocuous nature), it would be appropriate for the higher Court to appreciate that any such order for one case, without cogent and extremely compelling reasons, might upset the calendar and schedule of the subordinate Court; might result in assigning an unwarranted priority to that particular case over and above other cases pending in that Court; and progression of such other cases might suffer for no reason and none of the faults of the litigants involved therein."

5. Recently also, a Constitution Bench of Hon'ble Supreme Court in re ***"High Court Bar Association, Allahabad vs. State of U.P. & Ors. in Criminal Appeal No.3589 of 2023 with Special Leave Petition (Crl.) nos.13284-13289 of 2023 and Criminal Appeal"***, has observed that:-

"Constitutional Courts, in the ordinary course, should refrain from fixing a timebound schedule for the disposal of cases pending before any other Courts. Constitutional Courts may issue directions for the time-bound disposal of cases only in exceptional circumstances. The issue of prioritizing the disposal of cases should be best left to the decision of the concerned Courts where the cases are pending".



6. In the light of aforesaid, this Court refrains itself from fixing any time frame for the court concerned for expeditious disposal of the case.

However, it goes without saying that it is the bounden duty of every court to make every possible endeavour to decide the proceedings at the earliest without any undue delay and if there is any statutory period fixed to conclude a trial, then every effort should be made to ensure the same.

It would be pertinent to observe that process sent by the court are not being served or executed with earnest. The non-service of the same unnecessarily delays the dispensation of justice and increases the pendency of cases in Courts. Therefore, every court should be more diligent to ensure service of process or execution of non-bailable warrants.

To achieve this goal, the trial court should always see that why the process sent by it was not served. It is pertinent to observe that the non-bailable warrants should be served/executed by a police officer not below the rank of Sub-Inspector posted in the police station having jurisdiction. Each court should ensure that every process issued by it returns to it either after service/execution or, if not served/executed, with the report of the frustration.

7. With the above observation, petition stands disposed of.

8. Copy of this judgment be circulated to all Districts Courts for necessary compliance.

(Vivek Bharti Sharma, J.)

06.05.2025