



2025:UHC:3702

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc Application No. 609 of 2025

08 May, 2025

Ashraf Ali

--Petitioner.

Versus

Mohammad Javed

--Respondent

Presence:-

Mr. Abhishek Verma, Advocate for the petitioner.

Hon'ble Vivek Bharti Sharma, J.

This criminal miscellaneous application under Section 528 of B.N.S.S. has been filed with a prayer to direct the learned Court below to expedite the proceedings of Complaint Case No.325 of 2021, "*Ashraf Ali Vs. Mohammad Javed*" under Section 138 of the Negotiable Instruments Act, 1881, Police Station Doiwala, District Dehradun, pending in the Court of learned Judicial Magistrate, Doiwala, Dehradun and decide the same within a fixed time frame.

2. Learned counsel for the petitioner would submit that the petitioner/complainant filed Complaint Case No.325 of 2021 on 23.11.2021 before the Court of the learned Judicial Magistrate, Doiwala, District Dehradun, under Section 138 of the Negotiable Instruments Act, 1881, seeking recovery of the total cheque amount of ₹4,67,000/- (Cheque No.727312 for ₹2,50,000/- and Cheque No.727313 for ₹2,17,000/-) from the respondent; that, the learned Magistrate initially fixed the matter for recording the complainant's statement, and thereafter, vide order dated 09.05.2022, summoned the respondent to appear before the Court; that, despite the summoning order, the respondent failed to appear; that, thereafter, the case was listed for hearing on



2025:UHC:3702

17.06.2022, 06.08.2022, 26.09.2022, 24.11.2022, 20.04.2023, 19.06.2023, 25.07.2023, 20.01.2024, 27.04.2024, 29.08.2024, 05.10.2024 and 14.02.2025 but no effective hearing could take place and the case is yet pending consideration. Hence, this petition is filed for direction to the concerned Magistrate to decide the aforesaid complaint case expeditiously.

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.

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

(Vivek Bharti Sharma, J.)

08.05.2025

SS