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HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc Application No. 702 of 2025

22 May, 2025

Ishak Lal

--Petitioner

Versus

Devendra Kumar

--Respondent

Presence:-

Mr. Mohd. Safdar alongwith Mr. Faizan Ali, leaned counsel for the petitioner.

Hon'ble Vivek Bharti Sharma, J.

This criminal misc. application is filed under Section 528 of B.N.S.S. by the petitioner for expeditious disposal of Complaint Case No.682 of 2021, "*Ishak Lal vs. Devendra Kumar*" pending before the learned Additional Chief Judicial Magistrate (*Senior Division*) Roorkee, District Haridwar under Section 138 of Negotiable Instruments act (*'the Act' in short*) against the respondent on day to day basis as far as possible within a time period of six months as envisaged under Section 143(2) and (3) of the Act.

2. Learned counsel for the petitioner would submit that the proceedings under Section 138 of the



Act are summary in nature and therefore, the same have to be decided within six months of initiation of proceedings, but the aforementioned matter has been pending since 16.04.2021 and the same is not only abuse of process of law but also violation of settled proposition of law laid down by the Hon'ble Supreme Court wherein the proceedings under Section 138 of the Act has to be decided within six months of the initiation of the proceedings.

3. He would refer the statutory provision enshrined under section 143(2) of the Act, which says that *the trial of a case under this section shall, so far as practicable, consistently with the interests of justice, be continued from day to day until its conclusion, unless the court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded in writing, and;*

Section 143(3) of the Act says that *Every trial under this Section shall be conducted as expeditiously as possible and an endeavour shall be made to conclude the trial within six months from the date of filing of the complaint.*



4. This Court is very much aware of the above referred statutory provision enshrined u/s 138 of the Act but at the same time this Court cannot be oblivious of the fact that there is huge pendency and backlog of cases in civil courts and any such direction for the expeditious disposal of the case will further overburden the court below.

5. The 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."

6. Recently also, a Constitution Bench of Hon'ble Supreme Court in *re "High Court Bar Association, Allahabad vs. State of U.P. & Ors."*, (2024) 6 SCC 267 in Criminal Appeal No.3589 of 2023



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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 time-bound 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”.

7. In the light of aforesaid, the present petition is disposed of with direction to the learned Additional Chief Judicial Magistrate (*Senior Division*), Roorkee, District Haridwar to decide the Complaint Case No.682 of 2021 ‘*Ishak Lal vs. Devendra Kumar*’ as expeditiously as possible, in accordance with law.

(Vivek Bharti Sharma, J.)
22.05.2025

Akash