2026:AHC:210320

# HIGH COURT OF JUDICATURE AT ALLAHABAD

**APPLICATION U/S 529 BNSS No. - 4858 of 2026**

Vijay Yadav

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

| | | |
|---|---|---|
| Counsel for Applicant(s) | : | Chandra Bhushan Yadav, Geeta Yadav |
| Counsel for Opposite Party(s) | : | G.A. |

**Court No. - 82**

**HON'BLE JAI PRAKASH TIWARI, J.**

Heard learned counsel for the applicant and learned A.G.A for the State as also perused the record.

This application under Section 529 BNSS has been filed seeking direction to the court concerned to initiate criminal proceedings against opposite party no. 2, in Complaint Case no. 121058 of 2021 (Vijay Yadav vs. Ansh Nishad), under Section 138 of Negotiable Instruments Act, 1881, pending before the court of learned A.C.J.M.-II, Gorakhpur, expeditiously within stipulated period.

As per submission of learned counsel for the applicant, on 04.10.2021, the applicant has filed a case against the opposite party no. 2 under Section 138 N.I. Act, which was registered as Case No. 121058 of 2021. It is next submitted that opposite party no. 2 using dilatory tactics and are not appearing before the court concerned. The entire matter is pending before the court concerned since then. Learned counsel for the applicant submits that the present complaint case is pending since 2021 and therefore, a substantial period of time has already lapsed. It is next submitted that as per Section 143(3) of the N.I. Act, complaint should be disposed of within a period of six months from the date of filing.

Here, it would be relevant to note Section 143 of the Negotiable Instruments Act, 1881, which provides that:

***"143. Power of Court to try cases summarily.—***

*(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), all offences under this Chapter shall be tried by a Judicial Magistrate of the first class or by a Metropolitan Magistrate and the provisions of sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trials:Provided that in the case of any conviction in a summary trial under this section, it shall be lawful for the Magistrate to pass a sentence of imprisonment for a term not exceeding one year and an amount of fine exceeding five thousand rupees:Provided further that when at the commencement of, or in the course of, a summary trial under this section, it appears to the Magistrate that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Magistrate shall after hearing the parties, record an order to that effect and thereafter recall any witness who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code.*

*(2) 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.*

*(3) 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."*

Considering the facts and circumstances of the case, without expressing any opinion on the merits of the case, this application is finally **disposed of** with a direction to the court concerned to decide the aforesaid case and conclude the trial in accordance with law, keeping in view the procedure, as expeditiously as possible, without granting any unnecessary or long adjournments to either of the parties, as per the provision of Section 143 of the N.I. Act, if possible, preferably within six months, from the date of presentation of a certified copy of this order before the court, if there is no other legal impediment. However, it is expected that both the parties shall cooperate with the trial.

**(Jai Prakash Tiwari,J.)**

**October 7, 2026**
Brijesh

Digitally signed by :-
BRIJESH KUMAR
High Court of Judicature at Allahabad