

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL
Criminal Misc. Application No. 1233 of 2015
(Under Section 482 Cr.P.C.)

Dr. Samuel K. Arun

... Applicant

Vs

State of Uttarakhand & another

... Respondents

Mr. Niranjana Bhatt, Advocate, present for the applicant.

Mr. V.K. Gemeni, learned Deputy Advocate General, present for the State/respondent No. 1.

Hon'ble Sudhanshu Dhulia, J. (Oral)

1. In the present matter, the applicant is facing a trial in Criminal Case No. 469 of 2009, under Sections 323/504/506 of I.P.C., which is pending in the court of Judicial Magistrate, Vikas Nagar, District Dehradun. The present matter relates to the year 2009 and cognizance has already been taken against the present applicant in the matter by the court concerned. The examination-in-chief of P.W.1 was done on 11.09.2013 and partly cross examination was also done on the same day itself. Thereafter three dates were fixed by the court concerned to cross examine P.W.1, but it could not be done by the applicant and the matter was fixed for 20.08.2014 to cross examine P.W.1. The matter was adjourned to post lunch session, but neither the counsel nor any adjournment application was moved on behalf of the applicant before the court concerned. Thereafter, the court below closed the opportunity of cross-examination of P.W.1 vide order dated 20.08.2015. The applicant moved an application under Section 311 of Cr.P.C. to re-examine P.W.1, which was rejected by the court concerned vide order dated 18.08.2015. Aggrieved by the said order, the applicant preferred a revision before the learned District & Sessions Judge, Dehradun, which was dismissed by the revisional court on the ground of delay vide order dated 31.08.2015. Hence the applicant referred present application under Section 482 Cr.P.C. before this Court.

2. Although Section 311 of Cr.P.C. gives wide powers to the trial court to re-examine or call for any new witness as

well, but considering the conduct of the present petitioner, who refused to cross examine P.W.1 on various occasions, this Court is also not inclined to interfere in the present matter. In his application dated 10.09.2014 he has stated that he is not well during the post lunch session, therefore, he could not be present in the court whereas the subsequent pleading shows that the plea taken by the applicant that the lawyer Narendra Singh was not well. From the perusal of the impugned order dated 18.08.2015 it appears that there are two or three other counsels as well on behalf of the applicant on that day. Therefore, the court below has rightly rejected his application. This Court is of the view that the application to cross examine P.W.1 is nothing but a ploy to delay the proceedings. His application has rightly been rejected by the appellate court.

3. Considering the conduct of the present applicant, no interference is presently called for in the matter. Speedy trial is also a right of every person enshrined under Article 21 of the Constitution of India. The trial court has rightly rejected the application under Section 311 of Cr.P.C. of the applicant.

4. With the aforesaid observations, the application under Section 482 Cr.P.C. is hereby dismissed in-limine.

(Sudhanshu Dhulia, J.)

30.09.2015

Aswal