

Court No. - 81

Case :- MATTERS UNDER ARTICLE 227 No. - 516 of 2023

Petitioner :- Smt. Pooja

Respondent :- Anand

Counsel for Petitioner :- Sanjay Kumar Shukla

Counsel for Respondent :- Sanjeev Kumar Trivedi

Hon'ble Mrs. Jyotsna Sharma,J.

1. Heard Sri Sanjay Kumar Shukla, learned counsel for the petitioner and Sri Sanjeev Kumar Trivedi, learned counsel for the respondent.
2. Today, counter affidavit filed on behalf of the respondent is taken on record.
3. This petition under Article 227 of the Constitution has been filed challenging the order dated 30.09.2022 passed by Principal Judge, Family Court, Kannauj, by which the petitioner (wife) was granted interim maintenance of Rs. 2,500/- per month.
4. It is submitted on behalf of the petitioner that maintenance amount is quite inadequate and the learned Principal Judge did not consider the fact that the husband has sufficient means and is posted as 'assistant teacher', earning a handsome salary. Learned trial court has fixed a meager amount as interim maintenance, which cannot be justified from any angle.
5. On the other hand, the respondent submits that the petitioner has raised disputed questions of fact, which cannot appropriately be adjudicated upon in this petition moved under Article 227 of the Constitution.
6. In my opinion the submissions made by the applicants' counsel call for adjudication on pure questions of fact which may be adequately adjudicated upon only by the trial court. A threadbare discussion of various facts and circumstances, as they emerge from the allegations made against the accused, is being purposely avoided by the Court for the reason, lest the same might cause any prejudice to either side during trial. The proper course for the wife was to file a revision where the court had much wider scope to decide the matter. In a proceeding under Article 227, the court is not expected to go into and reappreciate the evidence unless there is some glaring error of fact or law leading to miscarriage of justice. I do not find any good ground to interfere.
7. This fact has been brought to my notice that the petition under section 125 Cr.P.C. is pending since last about two years and has not been finally decided. In these circumstances, the learned trial court is directed to expedite the hearing and to decide the matter, preferably within a period of 6 months, provided both the sides cooperate and play their role in a diligent manner.
8. With the above observations, this petition is finally ***disposed of***.

Order Date :- 3.11.2023

#Vikram/-