

Court No. - 90

Case :- APPLICATION U/S 482 No. - 22104 of 2023

Applicant :- Saurabh Mishra

Opposite Party :- State Of U.P. And 2 Others

Counsel for Applicant :- Awadhesh Tiwari, Satyendra Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Pathak, J.

1. Heard learned counsel for the applicant, learned AGA and perused the record.

2. The present applicant has invoked the inherent power of this Court under Section 482 CrPC seeking expeditious disposal of the application/ Misc. Case No.694 of 2023 (Saurabh Mishra Vs. Shikha Mishra and another), under Section 126 (2) Cr.P.C., Police Station Barra, District Kanpur Nagar, pending consideration in the court of Additional Principal Judge, Family Court No.2, Kanpur Nagar.

3. It is submitted that application under Section 125 Cr.P.C. has been filed on behalf of opposite party nos.2 and 3 on 12.10.2020, which was allowed vide ex-parte order dated 20.12.2022. At a later stage, an application dated 18.03.2023 has been filed under Section 125 (3) Cr.P.C., During pendency of the application dated 18.03.2023, present applicant (husband) has moved an application under Sections 126 (2) Cr.P.C. to recall the ex-parte order dated 20.12.2022 passed under Section 125 Cr.P.C.

4. Grievance of the applicant is that despite the pendency of the application under Section 126 (2) Cr.P.C., Court is through out proceeding under Section 125 (3) Cr.P.C. to execute the ex-parte judgement dated 20.12.2022 passed under Section 125 Cr.P.C.

5. Learned AGA has no objection in case a direction is issued for expeditious disposal of the aforesaid application under Section 126 (2) Cr.P.C. pending consideration in the court as mentioned above within stipulated period as directed by this Court.

6. In this conspectus, as above, no useful purpose would be served to keep this matter pending, therefore, this Court deems it

appropriate to finally dispose of the present application, without making any observation on the merits of the case as mentioned in the present application, with a direction to learned Principal Judge, Family Court No.2, before whom aforementioned case is pending consideration to decide the same expeditiously, preferably, within a period of two months, in accordance with law, from the date of receipt of a certified copy of this order.

7. It is made clear that for a period of two months or till the decision on the application dated 19.04.2023 under Section 126 (2) Cr.P.C., whichever is earlier the effect and operation of the order dated 20.12.2022 shall be kept in abeyance.

8. With the aforesaid direction, present application is disposed of.

Order Date :- 16.10.2023

Jitendra