

Court No. - 91

Case :- APPLICATION U/S 482 No. - 22967 of 2023

Applicant :- Mahendra Singh

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Prateek Sinha, Vikram Singh Shrivastava

Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar, J.

1. Heard learned counsel for the applicant as well as learned A.G.A.

2. By means of the present application, the prayer sought by the applicant is to quash the impugned order dated 22.05.2023 in Interim Maintenance Application No.3A bearing Misc. Case No.406/2022 (Suman and others vs. Mahendra Singh) in Criminal Case No.699 of 2021, under section 125 Cr.P.C., Police Station Bar, District Lalitpur, pending in the court of Principal Judge, Family Court, Lalitpur and further prayer to stay the proceedings of the aforesaid case has been made.

3. It is submitted by learned counsel for the applicant that applicant is not the father-in-law of the opposite party no.2 nor her husband is his son. It is further submitted that questions related to paternity and maternity of parties cannot be decided in summary proceedings under section 125 Cr.P.C. and parties should relegate themselves before the competent court of jurisdiction for the said purpose. Further submission is that the court below without going into the veracity of the case has committed gross illegality while passing the impugned order. As such, if the proceedings against the applicant are allowed to go on it will result in nothing but abuse of process of law.

4. Learned A.G.A. has opposed the prayer made by learned counsel for the applicant.

5. In view of the above, the impugned order is not sustainable in the eyes of law and is liable to be quashed.

6. Hence, the impugned order dated 22.05.2023 is hereby set-aside. The matter is remanded back to the trial court concerned to decide the matter afresh in accordance with law, within a period of two months from the date of production of certified copy of this order.

7. With the aforesaid observations, the application stands **disposed of**.

Order Date :- 19.10.2023

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