

Court No. - 90

Case :- APPLICATION U/S 482 No. - 32902 of 2023

Applicant :- Abu Bakar

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

Counsel for Applicant :- Dharmendra Pratap Kushwaha

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 beseeching the quashing of order dated 11.4.2023 passed in Misc. Criminal Case No. 504 of 2021 (Nasibunnisha Vs. Abu Bakar), under Section 128 of CrPC, Police Station Itwa, District Siddharth Nagar arising out of the Misc. Criminal Case No. 283 of 2007, under Section 125 of CrPC, pending before Principal Judge, Family Court, Siddharth Nagar.

3. Grievance of the applicant is that bailable/arrest warrant has illegally been ordered to be issued against him whereas he was throughout appearing before the court concerned and co-operating with the court proceeding, however, on 11.4.2023, he could not appear due to some personal unavoidable circumstances which has illegally been misinterpreted by the court concerned who issued bailable/arrest warrant. It is submitted by the learned counsel for the applicant that in the previous application dated 18.3.2016 under Section 128/125 (3) CrPC, the applicant has deposited the entire maintenance amount in pursuance of the order dated 27.6.2008 passed by Civil Judge (Junior Division)/Judicial Magistrate, Naugarh, Siddharth Nagar in Case No. 283 of 2007, under Section 125 CrPC. Having considered the deposit of entire amount, the learned Principal Judge, Family Court, Siddhartha Nagar has dropped the proceeding vide order dated 5.4.2021. At subsequent stage, Opposite Party No. 2 has moved another application under Section 128/125 (3) CrPC dated 3.11.2021 which is pending consideration before the court concerned. It is further submitted that entire money has been deposited by the petitioner and nothing remains to be deposited in pursuance of the final order dated 27.6.2008.

4. Having considered the submissions as raised by the learned

counsel for the applicant and pendency of the application under Section 128/125 (3) CrPC, in my considered opinion, no useful purpose would be served to keep the instant application pending before this Court, therefore, this Court deems it appropriate to finally dispose of this application, without going into the merits of the case, granting liberty to the present applicant to move a bail application before the court below. Therefore, present applicant if surrenders/appears before the court below and moves a bail application within a period of two weeks from today, the same shall be considered and decided by the court concerned within two weeks thereafter.

5. For a period of four weeks or till the decision on bail application, whichever is earlier, the effect and operation of order dated 11.4.2023 shall be kept in abeyance and no coercive action shall be taken against the present applicant in the aforementioned case.

6. Accordingly, instant application is finally **disposed of**.

Order Date :- 17.10.2023

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