

Court No. - 86

Case :- APPLICATION U/S 482 No. - 34431 of 2023

Applicant :- Rajesh Prajapati

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Alauddin, Fakhruddin

Counsel for Opposite Party :- G.A.

Hon'ble Rajiv Gupta, J.

1. Heard learned counsel for applicant and learned A.G.A.

2. This application under section 482 Cr.P.C. has been filed with the prayer to quash the order dated 26.4.2023 passed by Principal Judge, Family Court, Siddharth Nagar in Misc. Criminal case No. 154 of 2022, Smt. Meena Prajapati Vs. Rajesh Prajapati, under section 128 Cr.P.C. P.S. Siddharth Nagar, District Siddharth Nagar and the entire criminal proceedings of aforesaid case, pending in the court of Principal Judge, Family Court, Siddharth Nagar, District Siddharth Nagar.

3. Learned counsel for applicant has submitted that vide order dated 8.3.2022, the applicant was directed to pay a sum of Rs. 8000/- to O.P. No.2 and Rs. 4000/- to her daughter per month. However, till date not a single penny has been paid to O.P. No.2

4. Learned counsel for the applicant has next submitted that an amount of Rs. 4.00 lacs stands due to O.P. No.2.

5. Learned counsel for the applicant has further submitted that her daughter is staying with him as such the amount of maintenance is not being paid.

6. Per contra, learned A.G.A. has supported the impugned order and has submitted that disputed question of fact, if the applicant's daughter is staying with the applicant can not be decided in an application filed under section 482 Cr.P.C. and can

well be raised before the court below. Perusal of the order sheet further shows that the applicant has not been repeatedly appearing before the court below and avoiding the payment of due amount as such the impugned order is just, proper and legal and do not call for any interference.

7. Having considered the rival submissions made by the parties and from the perusal of the order sheet, it is evident that the applicant has not paid a single penny to the opposite party and has also not been attending the court to avoid payment of the due amount to the opposite who is leading a life of destitute.

8. In view of the above, the impugned order dated 26.4.2023 passed by the court below is just, proper and legal and do not call for any interference in exercise of power u/s 482 Cr.P.C.

9. The application u/s 482 Cr.P.C. is devoid of merits and is accordingly dismissed.

Order Date :- 12.10.2023

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