

Court No. - 89

Case :- APPLICATION U/S 482 No. - 34234 of 2023

Applicant :- Mohit Tiwari

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

Counsel for Applicant :- Kanjaanan Pyare Singh, Shubham Shukla

Counsel for Opposite Party :- G.A., Narendra Kumar Pandey

Hon'ble Deepak Verma, J.

1. Heard learned counsel for the applicant; learned counsel for opposite party no. 2 and learned AGA for the State respondent and perused the record.
2. This application under Section 482 Cr.P.C. has been filed to quash the impugned orders dated 25.07.2023 passed by the Additional Principal Judge, Family Court, Room No.5, Allahabad passed in Misc. Case No. 112 of 2022 (Mohit Tiwari Vs. Sangita Mohit Tiwari) under Section 126 Cr.P.C. by which the learned court below directed the applicant to deposit the security amount of Rs.1,53,000/- within fifteen days as well as order dated 17.08.2023 deciding the paper No. 13 C directing the applicant to deposit the security amount within 30 days either in installments or in one stroke in the aforesaid proceeding under section 126 Cr.P.C. in Original Case No.990 of 2017 (Sangita Mohit Tiwari and Another Vs. Mohit Tiwari) under Section 125 Cr.P.C.
3. Counsel for the applicant submits that opposite party no. 2 is the wife of applicant who moved application under Section 125 Cr.P.C. before the trial court and the court below vide order dated 06.05.2022 proceeded *ex-parte* against the applicant. Then applicant moved application under Section 126 Cr.P.C. to set aside the *ex-parte* order. The application of the applicant under Section 126 Cr.P.C. was allowed vide order dated 25.07.2023 with direction that applicant shall pay 1/4th of arrears amount Rs.1,53,000/- within fifteen days and the *ex-parte* order was set aside. Thereafter, the applicant again moved application before the concerned court that Rs.1,53,000/- as arrears, is too excessive and

he is unable to deposit the same within fifteen days and requested that some instalment may be fixed for depositing amount Rs.1,53,000. The said application of the applicant has been rejected vide order dated 17.08.2023 without considering the hardship of the applicant. Further submission is that some time may be given to deposit the said amount and in two instalments.

4. Per Contra, learned counsel for the opposite party no. 2 and learned A.G.A. opposed the submissions raised by counsel for the applicant and submitted that applicant is delaying the proceedings as in his presence the order impugned was passed on 25.07.2023 directing the applicant to deposit Rs.1,53,000/- within fifteen days and now he has moved the instant application for instalment. More than three years have passed. The applicant has only deposited Rs.20,000/-.

5. Considered the argument raised by counsel for the parties. It is evident from the record that application moved under Section 126 Cr.P.C. by the applicant, was allowed with direction to the applicant to deposit Rs.1,53,000/- within fifteen days but instead of paying arrears to opposite party no. 2, the applicant again moved application with permission to deposit the said amount in instalment. It clearly shows that the intention of the applicant is not good.

6. In view of the above, if the applicant deposits Rs.1,53,000/- (adjusting the amount already deposited after order dated 25.07.2023) in two instalments within a month, the learned court below shall proceed and decide the proceedings under Section 125 Cr.P.C. after giving proper opportunity of hearing to both parties within a period of four months.

7. With the aforesaid directions, the application under section 482 Cr.P.C. is disposed off finally.

Order Date :- 18.10.2023

Meenu Singh