

Court No. - 88

Case :- APPLICATION U/S 482 No. - 34547 of 2023

Applicant :- Ravishankar Tiwari @ Rajbansh Tiwari

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

Counsel for Applicant :- Saroj Kumar Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh,J.

1-Heard learned counsel for the applicant as well as learned A.G.A. for the State of U.P./opposite party no.1.

2-This application under Section 482 Cr.P.C. has been preferred by the applicant-Ravishankar Tiwari @ Rajbansh Tiwari who is husband of opposite party no.2-Ekta Tiwari and father of opposite party nos. 3 and 4, namely, Hariom Tiwari @ Akhilesh Tiwari and Shivaji, with a prayer to quash the order dated 24.08.2023 passed by Principal Judge, Family Court Chandauli in Misc. Case Nos. 239 of 2023 and 845 of 2022.

3-Brief facts of the case which are required to be stated are that opposite party nos. 2, 3 and 4 moved an application u/s 125 Cr.P.C., registered as maintenance petition No. 90 of 2019 before Principal Judge, Family Court, Chandauli, which was decided by ex parte order dated 19.10.2022 directing the applicant to pay a sum of Rs. 2,500/- per month to opposite party no.2 and Rs. 500/- per month to opposite party nos. 3 and 4 towards their maintenance from the date of presentation of their application. The applicant preferred an application u/s 126(2) Cr.P.C. dated 24.04.2023 for recall of ex parte order dated 19.10.2022, which was allowed vide impugned order dated 24.08.2023 setting aside ex parte order dated 19.10.2022, subject to condition that applicant shall pay 50% amount of maintenance in two equal instalments to opposite party nos. 2, 3 and 4 up to 24.08.2023.

4-Main substratum of argument of learned counsel

for the applicant is that the Family Court while allowing the application dated 24.04.2023 of the applicant has committed an error in directing the applicant to pay maintenance to opposite party nos. 2, 3 and 4 from the date of their application.

5-On the other hand, learned A.G.A. submits that application under Section 125 Cr.P.C. was filed by opposite party nos. 2, 3 and 4 in the year 2019, but till date not a single penny has been paid by the applicant to them towards their maintenance.

6-Having heard the submissions of learned counsel for the parties as noted above, I find that in view of the guidelines and directions laid down by the Apex Court in the case of **Rajnish Vs. Neha and another, (2021) 2 SCC 324**, there is no illegality in the order dated 24.08.2023.

7-This application under Section 482 Cr.P.C. lacks merit and is, accordingly, ***dismissed***.

8-Copy of this order be sent to opposite party no.2 as well as concerned court below for necessary information.

Order Date :- 28.11.2023

Kashifa