

Court No. - 87

Case :- APPLICATION U/S 482 No. - 34746 of 2023

Applicant :- Parveen Goyal

Opposite Party :- State Of U.P. And Another

Counsel for Applicant :- Saurabh Kesarwani, Dinesh Kumar Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Neeraj Tiwari, J.

1. Supplementary affidavit filed today is taken on record.
2. Heard learned counsel for the applicant and Sri Yogesh Kumar Singh, learned A.G.A. for the State.
3. The present 482 Cr.P.C. application has been filed to quash the order of RC/Recovery warrant of Rs. 3,20,000/- dated 27.06.2023 and 03.08.2023 as well as the entire proceedings of Criminal Misc. Case No. 318 of 2023, arising out of Case Crime No. 24 of 2020, under Section 125(3) Cr.P.C., Police Station- Dankaur, District- Gautam Budh Nagar.
4. Learned counsel for the applicant submitted that opposite party No. 2 has filed application No. 24 of 2020 for maintenance under Section 125 Cr.P.C. on 28.01.2020, which was decided ex parte by Additional Principal Judge, Family Court, Gautam Budh Nagar vide order dated 03.12.2022. He next submitted that for compliance of order dated 03.12.2022, opposite party No. 2 filed another application, being Application No. 318 of 2023 dated 20.04.2023 under Section 125(3) Cr.P.C., upon which recovery warrant dated 27.06.2023 has been issued against the applicant. He next submitted that immediately, after knowing about the proceeding under Section 125(3) Cr.P.C., applicant has moved application under Section 126(2) Cr.P.C. on 08.08.2023 for recalling the order dated 27.06.2023, which is still pending for adjudication. He next submitted that before disposal of recall application filed by the applicant under Section 126(2) Cr.P.C., proceeding under Section 125(3) Cr.P.C. against the applicant is bad and liable to be set aside.
5. Learned A.G.A. could not dispute this fact from the records.

6. In view of facts and circumstances of the case, application is **disposed of** with direction to Principal Judge, Family Court Gautam Budh Nagar to decide the application under Section 126(2) Cr.P.C. dated 08.08.2023 filed by the application maximum within three months from the date of production of certified copy of this order. For a period of three months or till the disposal of application dated 08.08.2023, whichever is earlier, further proceeding of Application No. 318 of 2023, under Section 125(3) Cr.P.C. shall remain stayed.

Order Date :- 13.10.2023

ADY