

Court No. - 91

Case :- APPLICATION U/S 482 No. - 37184 of 2023

Applicant :- Rajiv Kumar Upadhyay

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

Counsel for Applicant :- Arvind Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar,J.

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

2. This application under section 482 Cr.P.C. has been filed to quash the order dated 29.09.2020 passed by Session Judge Sambhal at Chandausi in Criminal Appeal No.17/2019 (Rajiv Kumar Upadhyay Vs. Kusumlata and Another) as well as order dated 21.08.2019 passed by Civil Judge (J.D.)/ Judicial Magistrate, Sambhal at Chandausi in Complaint Case No. 1192 of 2022 (Old No. 1349/2019) (Kusumlata Vs. Rajiv Kumar Upadhyay), under sections 23 of Protection of Women from Domestic Violence Act, 2005, Police Station Chandausi, District-Sambhal and further prayer to stay the proceedings of the aforesaid case has been made.

3. It is submitted by learned counsel for the applicant that a plea was taken before the appellate court that an application under section 125 Cr.P.C. has already been decided against the applicant in which an allowance of Rs.4,000/- has been allowed which is being paid to the opposite party no.2. Contention is that the submission/ plea has not been considered by the appellate court while passing the impugned order.

4. Per contra, learned A.G.A. contended that so far as the

submissions/ pleas raised by the learned counsel for the applicant, he has still an opportunity to move an application before the trial Court for the adjustment of the same while issuing recovery warrant against the applicant.

5. In view of above, the application is **disposed of** with the direction to the applicant to move an application before the trial Court for adjustment of the maintenance amount already ordered under section 125 Cr.P.C. and the court concerned may decide the same in the light of law laid down by Supreme Court in **Rajnish Vs. Neha and Another, reported in (2021) 2 SCC 324** in accordance with law.

Order Date :- 30.11.2023

Shiv