

Court No. - 88

Case :- APPLICATION U/S 482 No. - 37689 of 2023

Applicant :- Amit Singh

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

Counsel for Applicant :- Krishan Kumar Triwari, Anand Mohan Pandey

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-The instant application under Section 482 Cr.P.C. has been preferred against the order dated 16.03.2022 passed by Additional Principal Judge Family Court, Room No.5, Allahabad in Case No. 1113 of 2019 (Pragati Singh Vs. Amit Singh), under Section 125 Cr.P.C., Police Station-Dhoomanganj, District-Allahabad, whereby the applicant who is husband of opposite party no.2 and father of opposite party no.3 has been directed to pay a sum of Rs. 5000/- to opposite party no.2 and Rs. 2000/- to opposite party no.3 on tenth day of each month toward an interim maintenance as well as order dated 02.09.2023 whereby application dated 26.05.2022 of the applicant under Section 151 C.P.C. has been rejected.

3-Main substratum of argument of learned counsel for the applicant is that the application under Section 125 Cr.P.C. of opposite party no.2 has not been properly sworn and verified, hence the same is not maintainable, but the Additional Principal Judge, Family Court has illegally rejected the said application of the applicant. Hence, both the impugned orders dated 16.03.2022 and 02.09.2023 are not sustainable and liable to be quashed.

4-On the other hand, Mr. Deepak Mishra, learned Additional Government Advocate of the State refuting the said submissions of learned counsel for the applicant raised a preliminary objection with regard to maintainability of this application qua order

dated 16.03.2022 by contending that the applicant has already filed an application dated 20.08.2022 for recall of order dated 16.03.2022, which is still pending before the concerned court below, therefore, the applicant cannot be allowed to avail two remedies simultaneously. So far as order dated 02.09.2023 is concerned, it is argued that the Family Court while rejecting the application dated 26.05.2022 (Paper No. 11-Ga) has given cogent reason that the provisions of Section 125 Cr.P.C. has been made for general benefit of the women, to achieve aim and object of Article 15(3) of the Constitution of India, therefore, the application under Section 125 Cr.P.C. cannot be rejected merely on the technical ground.

5-Having heard the submissions of learned counsel for the parties and perusing the record in its entirety, I find that factual submissions raised by learned A.G.A. have not been disputed by learned counsel for the applicant, therefore, I find substance in the submission of learned A.G.A. I also do not find any illegality in the order dated 02.09.2023 as no substantial prejudice is going to be caused to the applicant. So far as order dated 16.03.2022 is concerned, the application for recall of the same, is still pending before the Family Court, therefore, relief as sought for by means of this application for quashing of order dated 16.03.2022 by this Court is also not maintainable at this stage. Hence no interference is required in the impugned order dated 16.03.2022 and 02.09.2023.

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

7-Copy of this order be sent to opposite party no.2 and concerned court below within a week.

Order Date :- 6.11.2023

Kashifa