

Court No. - 89

Case :- APPLICATION U/S 482 No. - 37826 of 2023

Applicant :- Amit Gupta

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

Counsel for Applicant :- Keshari Nath Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma,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 by the applicant to quash the order dated 05.04.2023 passed by the Civil Judge (Junior Division)/F.T.C., Sambhal at Chandausi in Case No. 02 of 2022 (Priyanka Gupta vs. Amit Gupta), under Section 31(1) of Protection of Women from Domestic Violence Act, Police Station- Chandausi, District- Sambhal. A further prayer has been made to direct the Civil Judge (Junior Division)/F.T.C., Sambhal at Chandausi to reconsider the application dated 16.12.2022 of the applicant and pass afresh order in accordance with law and may also be pleased to direct the Civil Judge (Junior Division)/F.T.C., Sambhal at Chandausi not to take any coercive measure against the applicant till disposal of application dated 16.12.2022.

3. Learned counsel for the applicant submits that observation made by the learned Trial Court in the order dated 05.04.2023, is illegal and liable to be set-aside. The applicant moved an application in pursuance of Hon'ble Apex Court judgment passed in the case of ***Rajnesh vs. Neha and another, (2021) 2 SCC 324***; that compliant under Section 31 of Protection of Women from Domestic Violence Act, is not in consonance with Apex Court judgment as well as not supported by an affidavit as observed by the Hon'ble Apex Court that every annexure annexed with the complaint must be supported by an affidavit. He next submits that the learned Civil Judge (J.D.)/F.T.C., Sambhal at Chandausi without considering the facts and on irrelevant consideration rejected the application of the applicant stating that judgment and order passed by Hon'ble Apex Court in ***Rajnesh (Supra)***, is not applicable in the present case.

4. Learned A.G.A. opposes the submissions made by counsel for the applicant.

5. Considered the submissions made by counsel for the parties and perused the entire record.

6. Hon'ble Apex Court has held that annexure annexed with the complaint/petition under Domestic Violence Act wherein details of the property of opposite party has been given, must be supported by an affidavit. On perusal of record, there is no annexure annexed with the complaint filed under the Domestic Violence Act and compliant filed by the opposite party no. 2 under Domestic Violence Act is supported by an affidavit. On perusal of record, it also appears that applicant has moved the instant application only to delay the proceedings. In view of above, no interference is warranted by this Court.

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

Order Date :- 1.11.2023

Aditya