

Court No. - 89

Case :- APPLICATION U/S 482 No. - 38020 of 2023

Applicant :- Rakesh Kumar

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

Counsel for Applicant :- Ganesh Shanker Srivastava, Deepak Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma, J.

1. Heard learned counsel for the applicant and learned AGA for the State.
2. The present 482 Cr.P.C. application has been filed to quash the ex-parte order dated 12.10.2018 passed by Principal Judge, Family Court, Siddharth Nagar in Criminal Case No.485 of 2016 (Smt.Sushila Devi vs. Rakesh Kumar), under section 125 Cr.P.C., Police Station Itwa, District Siddharth Nagar and order dated 27.03.2023 passed by Principal Judge, Family Court, Siddharth Nagar in Case No.672 of 2022 (Rakesh Kumar vs. Susheela), under section 126(2) Cr.P.C.
3. Learned counsel for the applicant submits that opposite party no.2 initiated proceeding under section 125 Cr.P.C. and Section 125 Cr.P.C. application was allowed ex-parte with Rs.3,000/- maintenance amount per month. Thereafter, applicant moved application under section 126(2) Cr.P.C. for setting aside ex-parte order dated 12.10.2018 but the application of the applicant under section 126(2) Cr.P.C. was dismissed for want of prosecution by order dated 27.03.2023. Against that order this Application under Section 482 Cr.P.C. has been filed.
4. *Per contra*, learned A.G.A. vehemently opposed the contention of learned counsel for the applicant.
5. Court is not inclined to go into merit of the case. Application of the applicant under Section 126(2) Cr.P.C. is dismissed for want of prosecution. Applicant has an alternative remedy to move application to set aside the order passed on 27.03.2023. No interference is warranted. The present 482 application is **dismissed** with the aforesaid observation.

Order Date :- 12.10.2023

SKD