

Court No. - 87

Case :- APPLICATION U/S 482 No. - 39426 of 2023

Applicant :- Avinash Kumar

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

Counsel for Applicant :- Harshit Gupta

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 learned AGA.
3. The present 482 Cr.P.C. application has been filed to set aside the impugned order dated 13.02.2023 passed in Maintenance Case No. 770 of 2021 (Sweety Kumari Vs. Avinash Kumar), under Section 125 Cr.P.C., P.S. Chakeri, District Kanpur Nagar & recovery warrant dated 09.10.2023 passed by Additional Principal Judge, Family Court, Room No. 1, Kanpur Nagar.
4. Learned counsel for the applicant submitted that applicant is suffering from chronic kidney disease since 2015 and residing at New Delhi since 2021. He next submitted that he admitted to the hospital from January, 2023 for kidney transplant. He is having no knowledge of proceeding and only after receiving recovery warrant from Execution Court, he could know about the same. He next submitted that after receiving the recovery warrant, he has filed recall application dated 24.7.2023, which was registered as Misc. Case No. 1650 of 2023, which is still pending for adjudication. He next submitted that a direction may be issued to decide the recall application on merit and till then, recovery proceeding may be stayed.
5. Considering the aforesaid facts and circumstances of the case, application is **disposed of** with direction to Family Court to decide the recall application dated 24.07.2023 at the earliest, maximum within a period of three months from the date of production of certified copy of this order. Till the disposal of recall application, recovery proceeding shall remain stayed against the applicant.

Order Date :- 3.11.2023

Arvind