

Court No. - 86

Case :- APPLICATION U/S 482 No. - 40685 of 2023

Applicant :- Nagaprasad Rao

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

Counsel for Applicant :- Sanjay Kumar Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Rajiv Gupta,J.

1. Heard learned counsel for the applicant, learned AGA for the State and perused the record.

2. The present application u/s 482 Cr.P.C. has been filed by the applicant with the prayer to quash order dated 18.08.2023 passed by Principal Judge, Family Court, Hathras in Case No. 526 of 2021 (Payal Sharma Vs. Nagaprasad Rao), under Section 125 Cr.P.C., Police Station Kotwali Hathras, District Hathras.

3. Learned counsel for the applicant has submitted that opposite party no.2 is the wife of the applicant and on account of matrimonial discord, she had filed an application for grant of maintenance under Section 125 Cr.P.C. on 08.11.2021. During the pendency of the said application, opposite party no.2 had filed an application for grant of interim maintenance on 16.06.2023 stating therein that the applicant is a bank employee and is getting salary of Rs.1,20,000/- per month, as such, an order be passed for grant of interim maintenance to her.

4. Learned counsel for the applicant has next submitted that the applicant had filed an objection to the said application on 18.08.2023, however, the court below illegally allowed the application for interim maintenance granting Rs.10,000/- per month, as interim maintenance, to opposite party no.2, which is too excessive and bad in law and as such, liable to be quashed.

5. Per contra, learned AGA has vehemently opposed the said prayer and has supported the impugned order. He has further submitted that opposite party no.2 is the wife of the applicant and had filed an application for grant of maintenance on 08.11.2021, however, despite lapse of more that two years, the said application has not yet been decided and is lingering on one pretext or the other and

opposite party no.2 is not being paid a single penny by her husband. Consequent thereto, she had filed an application for interim maintenance on 16.06.2023 clearly stating therein that the applicant is a bank employee and is drawing salary of Rs.1,20,000/- per month, however, he is not paying her any maintenance allowance which application has rightly been allowed by the court below directing the applicant to pay a sum of Rs.10,000/- per month to opposite party no.2 as interim maintenance and the said order is just, proper and legal and do not call for any interference.

6. Having considered the rival submissions made by the parties and taking into consideration the fact that the applicant is a bank employee and is said to have been drawing salary of Rs.1,20,000/- per month from the bank but has not been paying a single penny to his wife, who is living in distress and therefore, in the backdrop of the said circumstances, the impugned order passed by the court below directing the applicant to pay a sum of Rs.10,000/- per month, as interim maintenance is just, proper and legal and do not suffer from any illegality or error in law and as such, cannot be interfered with in exercise of power under Section 482 Cr.P.C.

7. The present application u/s 482 Cr.P.C. is, therefore, devoid of merits and is accordingly dismissed.

Order Date :- 7.12.2023
Subham