

Court No. - 89

Case :- APPLICATION U/S 482 No. - 41161 of 2023

Applicant :- Sanjeev Kumar

Opposite Party :- State Of U.P. And Another

Counsel for Applicant :- Virendra Kumar Gupta

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma,J.

1. Heard Sri Virendra Kumar Gupta, learned counsel for the applicant and learned A.G.A. for the State.
2. The present 482 Cr.P.C. application has been filed to quash the impugned order dated 12.10.2023 passed by Addl. Principal Judge, Family Court No.1, Ghaziabad in Criminal Case No.251 of 2018, under Section 125 Cr.P.C.
3. Learned counsel for the applicant has challenged the order dated 12.10.2023 passed by Additional Principal Judge, Ghaziabad struck down defence of applicant, who is husband of opposite party No.2 and proceeded ex parte. Applicant could not file objection due to some problem, he moved application that he was ill from 2.04.2023 to 08.08.2023 but learned Addl. Principal Judge without considering the application and reason for non appearance before the court, arbitrarily rejected the application of the applicant.
4. Considering the argument raised by applicant's counsel and perused the entire record, it is evident applicant has been stopped to produce evidence, which would effect his right to defence and in the interest of justice, an opportunity should be given to the applicant as he was ill, in view thereof impugned order dated 12.10.2023 passed by Additional Principal Judge, Family Court, Ghaziabad is set aside with direction that if applicant files defence/objection within two weeks from today, the court below shall consider the same in time and after affording opportunity of hearing both the parties and decide the application U/s 125 Cr.P.C. of opposite party No.2 within a period of four months from the date of production of certified copy of this order.
5. This application under Section 482 Cr.P.C. is accordingly **allowed**.

Order Date :- 7.11.2023

Nitin Verma