

Court No. - 93

Case :- APPLICATION U/S 482 No. - 43807 of 2023

Applicant :- Ravindra Singh

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

Counsel for Applicant :- Maohammd Nadeem

Counsel for Opposite Party :- G.A.

Hon'ble Manoj Bajaj,J.

Applicant-Husband has filed this petition under Section 482 Code of Criminal Procedure seeking quashing of the order dated 12.10.2023, whereby while accepting his application under Section 126(2) Cr.P.C. for setting aside the ex-parte order dated 24.11.2020 awarding monthly maintenance of Rs. 7000/- in favour of the wife-opposite party no. 2, was allowed with costs of Rs. 50,000/-.

Learned counsel for the applicant submits that being aggrieved against the ex-parte order dated 24.11.2020 the applicant filed application under Section 126(2) Cr.P.C. and the same has been decided in his favour by setting aside the ex-parte order subject to payment of cost of Rs. 50,000/-. He further submits that once the husband has made out a sufficient ground for setting aside the ex-parte order, the imposition of cost of Rs. 50,000/- is unjustified. He prays that the applicant is only challenging the cost part.

During the course of hearing, it is not disputed by learned counsel that the claim was filed by the wife in the year 2018 and the application to set aside the order dated 24.11.2020 was filed on 24.6.2022 with delay, which was condoned on 24.6.2022, and finally after three years, the ex-parte order has been set-aside.

Learned counsel for the applicant has fairly stated that during the maintenance claim raised by the wife, nothing has been paid by the applicant and at the time of moving the application under Section 126(2) Cr.P.C. the wife was pursuing her application

for execution for clearance of arrears of more than two lacs.

Considering the above background, particularly the provisions of Section 126(2), which empowers the Court to impose the cost while setting aside the ex-parte order, this Court does not find any reason to interfere with the order.

The petition is dismissed.

Order Date :- 6.12.2023

Faridul