

Court No. - 81

Case :- MATTERS UNDER ARTICLE 227 No. - 12294 of 2022

Petitioner :- Akhtar Ali @ Guddu

Respondent :- State Of U.P. And Anothers

Counsel for Petitioner :- Mohammad Abid Ali

Counsel for Respondent :- G.A.

Hon'ble Mrs. Jyotsna Sharma,J.

1. Heard Mohammad Abid Ali, learned counsel for the petitioner and Sri L.D. Rajbhar, learned AGA for the State.

2. This petition has been filed by the petitioner challenging the order dated 16.02.2022 passed by Nyaydhikari Gram Nyayalaya Bilsa, Badaun, whereby 5 year old daughter of the petitioner was ordered to be given Rs. 1,000/- per month as monthly maintenance from the date of the application till date of the order and Rs. 3,000/- per month from the date of the order and the order dated 29.10.2022 passed by the Additional Sessions Judge in Criminal Revision No. 59 of 2022 (Akhtar Ali @ Guddu vs. State of U.P. and Another), whereby the aforesaid order of maintenance was affirmed.

3. The main contentions of the petitioner are that his daughter Km. Hibja @ Fiza, who is minor, now aged about 8 year is staying with her maternal grandfather (nana) and that he filed an application to obtain the custody of his daughter, which is pending. The maternal grandfather of Km. Hibja @ Fiza filed an application for obtaining maintenance from him but the same is not appropriate as he is always been willing and ready to take care of his daughter. He filed criminal revision but the same was dismissed ignoring the fact that he was always ready to take care and maintain his daughter.

4. It is submitted by learned AGA that the matter of custody of a minor child is different from payment of maintenance and both the issues, cannot be mixed together. It is also vehemently pointed out that the petitioner is duty bound to obey the orders of the court but the petitioner has, admittedly not paid any amount till now.

5. I went through the impugned orders as well as the material on record. The petitioner has been directed to pay a meager amount to his minor daughter, who is admittedly staying with her maternal grandfather. The circumstances, under which she is and has been under care and protection of her maternal grandfather are not having any material bearing on the issue of payment of maintenance. The revision filed by the petitioner has already been dismissed. I went through the impugned orders, I do not find any illegality or infirmity of the nature which may compel this court to interfere in the impugned orders, in exercise of powers under Article 227 of the Constitution of India.

6. The petitioner is bound to pay the amount as directed by the court. Whatever the defence he might have, he could have taken those facts or circumstances before the court concerned. This court cannot go into the intricacies of the factual disputes.

7. In view of the above, I do not find any substance in this petition, therefore, it is **dismissed**.

8. A copy of the order be immediately transmitted to the court concerned for necessary action.