

Court No. - 89

Case :- APPLICATION U/S 482 No. - 44178 of 2023

Applicant :- Sunil Kumar

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

Counsel for Applicant :- Santosh Kumar Dubey, Krishna Kant Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Deepak Verma, J.

1. Heard Sri Santosh Kumar Dubey, learned counsel for the applicant and learned A.G.A. for the State.
2. This application under Section 482 Cr.P.C. has been filed by the applicant for a direction to Addl. Principal Judge, Family Court, Court No.1, Ghaziabad to quash the recovery warrant dated 17.07.2023 in Misc. Case No.424 of 2022, under Section 125(3) Cr.P.C., P.S. Niwadi, District Ghaziabad.
3. Learned counsel for the applicant submitted that opposite party No.2, wife of applicant, initiated proceedings U/s 125 Cr.P.C. which was allowed *ex parte* on 11.03.2022 and awarded maintenance amount of Rs.20,000/- per month to opposite party No.2. Applicant did not receive notice, as such, he could not appear before the Court. He further submitted that while allowing interim maintenance application, court below has not considered the status and income of the applicant as the applicant is earning Rs.35,000/- per month. The interim maintenance awarded by the court below is too excessive. The Addl. Principal Judge, Family Court, Ghaziabad in arbitrary manner and without application of judicial mind passed the order. The impugned order is wholly illegal and abuse of process of law.
4. *Per contra*, learned AGA submitted that order passed by Family Court is just and proper and considered the income of the applicant.
5. Considered the argument raised by applicant's counsel and perused the record, if applicant deposits Rs.1,25,000/- within in a month before Addl. Principal Judge, Family Court, Ghaziabad against the award dated 11.03.2022, the recovery warrant issued against the applicant shall remain stayed. If applicant moved application U/s 126 Cr.P.C. before the court below, the court below shall decide the application expeditiously, in accordance with law, after hearing both the parties.
6. If applicant does not deposit the aforesaid amount within a month, the order passed here shall have no effect and Court shall proceed against the applicant.
7. With the above directions, this application is **disposed of** finally.

Order Date :- 4.12.2023

Nitin Verma