

Court No. - 21

Case :- MATTERS UNDER ARTICLE 227 No. - 5197 of 2023

Petitioner :- Mrs. Heera Siddiqui @ Humaira And Another

Respondent :- Mr. Arshad Alam And 2 Others

Counsel for Petitioner :- Skand Bajpai, Pradeep Kumar Shukla

Counsel for Respondent :- G.A.

Hon'ble Neeraj Tiwari, J.

1. Heard Shri Skand Bajpai, learned counsel for the petitioners and Shri Alok Kumar Tiwari, learned AGA

2. At the very outset, Shri Skand Bajpai, learned counsel for the petitioners submits that he does not want to press the prayers (B) and (C) with liberty to move recall application for recalling the order dated 17.07.2023 for which learned AGA has no objection.

3. Shri Skand Bajpai, learned counsel for the petitioners submitted that during the pendency, she has moved the application under Section 125 Cr.P.C. along with 125(6) Cr.P.C. for interim maintenance. He next submitted that in the light of judgments, namely, **Jodhey v. the State through Ram Sahai, reported in 1952 SCC Online All 10, Savitri v. Govind Singh Rawat reported in (1985) 4 SCC 337, Shail Kumari Devi and another v. Krishan Bhagwan Pathak alias Kishun B. Pathak reported in (2008) 9 SCC 632, State of Orissa v. Dhaniram Luhar reported in (2004) 5 SCC 568, Noor Saba Khatoon v. Mohd. Quasim reported in (1997) 6 SCC 233, Anju Garg and another v. Deepak Kumar Garg reported in 2022 SCC Online SC 1314** and Chanda Devi v. State of U.P. and another (Criminal Revision No.1131 of 2022, dated 04.11.2022, it is required on the part of the Family Court

to grant interim maintenance in favour of respondent but without recording any reason, notices have been issued which is in violation of the aforesaid judgments. He further requested that order is liable to be set aside.

4. Learned counsel for the petitioners informs that 4th November, 2023 is date fixed in this matter.

5. Learned AGA opposed the submission and has submitted that such order would be in violation of natural of justice but he could not dispute the law laid down by the Hon'ble Apex Court.

6. Considering this fact, the petition is **disposed of** with a direction to Family Court, Principal Judge, to take decision upon the application under Section 126(3) and pass appropriate order considering the judgments placed before the Court.

Order Date :- 18.10.2023

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