

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 9304 of 2023

Petitioner :- Smt. Khushboo Nisha

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Home Deptt. Lko. And Others

Counsel for Petitioner :- Mohiuddin Khan, Mohd. Zaid Khan

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra, J.

Hon'ble Narendra Kumar Johari, J.

(1) Heard the learned counsel for the petitioner and the learned A.G.A. who appears for the Opposite party nos.1 to 4.

(2) This petition has been filed by the petitioner for the following main prayer:-

"1) Issue a writ of Mandamus or a writ, order or direction in the nature of Mandamus commanding and directing the opposite parties nos.1 to 4 forthwith apprehend the opposite party no.6 and produce him before the Court of learned Addl. Principal Judge, Court No.1, Family Court, Gonda, and attach the moveable and immovable properties of the Opposite party no.6 and auction them for recovery of the maintenance allowance of Rs.3000/- per month due from 10.04.2018 as per the Recovery Warrant dated 18.08.2023 issued by the Addl. Principal Judge, Court No.1, Family Court, Gonda, and make the payment to the petitioner within the time bound period as may be fixed by this Hon'ble Court."

(3) From perusal of the pleadings on record, it is evident that the Opposite party no.6-Jamal Ashraf alias Nadeem, was married to the petitioner- Smt. Khusboo on 23.04.2017. They seen fell out, as a result of which the petitioner filed an application under Section 125 Cr.P.C. which was allowed on 10.04.2018 but the Opposite party no.6 did not pay the maintenance as directed by the Court. The petitioner filed an application under Section 128 Cr.P.C. the Court has registered it as Case No.300 of 2021 and passed an order issuing Non-Bailable Warrant against the Opposite party no.6 on 30.07.2022.

Thereafter, Contempt notices were issued by the Additional Principal Judge, Family Court no.1, Gonda, on 07.11.2022 against the opposite party no.6. Thereafter, when the Opposite party no.6 was not arrested the Court concerned asked for an explanation from the Station House Officer concerned vide his order dated 10.01.2022. When the order of the learned Additional Principal Judge, Family Court, Gonda, is not complied with, the petitioner has filed this petition.

(4) This writ petition is not maintainable, it is ***dismissed as such.***

Order Date :- 7.12.2023
N.PAL