

Court No. - 15

Case :- APPLICATION U/S 482 No. - 12208 of 2023

Applicant :- Rajjab Ali

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Deptt. Lko. And 3 Others

Counsel for Applicant :- Vidya Bhushan Pandey, Shailendra Dwivedi

Counsel for Opposite Party :- G.A.

Hon'ble Shamim Ahmed, J.

Heard learned counsel for the applicant, learned A.G.A. for the State as well as perused the record.

This instant application under Section 482 Cr.P.C. has been moved by the applicant, namely, Rajjab Ali with a prayer to set aside the order dated 03.11.2023 to the extent of cost imposed by the court concerned for allowing the application under Section 126 Cr.P.C. for recalling the order dated 26.07.2022 by which the application under Section 125 Cr.P.C. has been allowed and ex-parte the judgment and order dated 26.07.2022 has been passed.

Submission made by the counsel for the applicant is that the applicant is a very poor person having no source of income and he has been unable to pay Rs. 5000/- per month. He further submitted that the court below has not considered that the respondent no.3 (wife) is living separately from the applicant without any reasonable reason so she is not liable to get any maintenance from the applicant. The learned trial court after recording the statements of the respondent no.2, without considering the facts and evidence on record, allowed the application of the opposite party no.3 and awarded Rs. 3,000/- per month to the wife-respondent No.3 and Rs. 2000/- per month to the daughter of the applicant-respondent No.4 from the date of the application.

Learned counsel for the applicant further submits that the aforesaid order dated 26.07.2022 awarding maintenance was passed ex-parte, therefore, the applicant moved an application under Section 126 Cr.P.C. before the learned trial court for recalling the aforesaid order dated 26.07.2022, however, the said application under Section 126 Cr.P.C. was conditionally allowed by the learned trial court with a condition that if the applicant will pay the cost of Rs.15,000/- then only the order

dated 26.07.2022 will be recalled.

Per contra, learned A.G.A. stated that the court below passed the impugned order after considering the facts and circumstances of the case, in such circumstances to meet the ends of justice, the impugned order does not require any interference. There is no illegality, impropriety and incorrectness in the impugned order and also there seems to be no abuse of court's process.

I have heard learned counsel for the respective parties and perused the record.

Counsel for the applicant has not been able to point out any such illegality or impropriety or incorrectness in the impugned order which may persuade this Court to interfere in the same. The cost imposed for recalling of the order dated 26.07.2022, which in the present days of high price rise cannot be said to be either excessive or disproportionate. The provisions of Section 125 of Cr.P.C are beneficial provisions which are enacted to stop the vagrancy of a destitute wife and provide some succor to them, who are entitled to get the maintenance which has been wrongly denied. The fact that the applicant is the husband of respondent No.3 has not been denied.

In such circumstances to meet the ends of justice, the impugned order does not require any interference. There is no illegality, impropriety and incorrectness in the impugned order and also there seems to be no abuse of court's process.

In view of the above, this application under Section 482 Cr.P.C. lacks merit and stands **dismissed**.

Order Date :- 15.12.2023

Piyush/-