

Court No. - 12

Case :- APPLICATION U/S 482 No. - 12600 of 2023

Applicant :- Janardan Bajpai

Opposite Party :- State Of U.P. Thru. Prin. Secy. Deptt. Of Home U.P. Lko. And 2 Others

Counsel for Applicant :- Prabhat Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh,J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

2. Present application has been moved by the applicant for quashing orders dated 21.03.2023, 29.11.2023 and 08.12.2023 passed by Additonal Principal Judge-III, Sultanpur in Crl. Misc. Case No.36/2020 and stay its proceedings till final conclusion of Crl. Misc. Case No.949/2023 under Section 126(2) Cr.P.C.

3. Learned counsel for the applicant submitted that the ex-parte order was passed on the application under Section 125 Cr.P.C. and when this fact came into the notice of the applicant then the application under Section 126(2) Cr.P.C. was filed on 28.06.2023, in the meantime, application under Section 128 Cr.P.C. was also moved by the private respondent, as the trial court started proceeding in the application under Section 128 Cr.P.C. without deciding the miscellaneous case which was registered on the application of the applicant under Section 126(2) Cr.P.C., and thereafter, the application was moved before the trial court in the miscellaneous case which was initiated on the application of private respondent moved under Section 128 Cr.P.C. with a request that the proceeding may be stayed till decision of the trial court on the application under Section 126 (2) Cr.P.C. but the same was rejected in the most mechanical manner, therefore, kind indulgence of this Court is necessary.

4. Learned A.G.A. opposed the prayer of applicant and submitted that the annexures of the application reveal that the cost of Rs.1000 was awarded in the miscellaneous case under Section 126(2) Cr.P.C. against the applicant but the same was not deposited despite repeated orders, therefore, the said application cannot be decided until the deposition of the cost and this fact is well within the knowledge of the applicant, at the same time, he was seeking the permission before the trial court to stay the proceeding in the application under Section 128 Cr.P.C., therefore, no benefit can be granted to the applicant.

5. Considering the submissions of learned counsel for the parties, going through the contents of application, as well as other relevant documents, as the application under Section 126(2) Cr.P.C. was moved by the applicant, in which, a cost of Rs.1000/- was awarded but the same was not deposited and at the same time, application under Section 128 Cr.P.C. was filed by the private respondent, as the application was moved by the applicant against the application under Section 128 Cr.P.C. for deferring the proceeding till the decision of the trial court but the cost was not deposited, therefore, the trial court has rightly rejected the prayer of the applicant.

6. As learned counsel for the applicant submitted that the applicant is ready to deposit the cost as awarded by the trial court in the application under Section 126(2) Cr.P.C., therefore, the application is **disposed of** with the cost of Rs.10,000/- and the trial court is directed to decide the pending application under Section 126(2) Cr.P.C. within a period of one month from today, till then, the operation of order dated 29.11.2023 and 08.12.2023 passed in Criminal Misc. Case No.36/2022 shall be kept in abeyance.

7. Trial court is directed to ensure that the cost amount be handed over to the private respondent forthwith.

Order Date :- 22.12.2023

V. Sinha