

GAHC010136052024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Pet./801/2024

PRAVIR KUMAR ROY
SON OF LATE SURENDRA KUMAR NATH, RESIDENT OF Z.H. PATH,
MATHURA NAGAR, SARUMOTORIA, PIN- 781026

VERSUS

ALKA SINGH
D/O- LATE TRIBHUWAN SINGH INDIRA NAGAR, LUCKHNOW, UTTAR
PRADESH, PIN- 226016

Advocate for the Petitioner : MRS. A GAYAN

Advocate for the Respondent :

BEFORE
HON'BLE MR. JUSTICE KALYAN RAI SURANA

11/07/2024

Heard Mrs. A Gayan, learned counsel for the petitioner.

2. Although the State is not a party in this criminal petition, we have taken assistance of Mr. B Gogoi, learned Additional Public Prosecutor for the State.

3. The case of the petitioner is that his marriage with the respondent was dissolved by order dated 08.05.2012 passed by the Principal Judge, Family Court, Kamrup (Metro), Guwahati in F.C. (Civil) Case No. 371/2013. The application of the respondent for condonation of delay was allowed by order dated 01.06.2016. Accordingly, the application for setting aside ex-parte decree is required to be adjudicated.

4. In the meanwhile, the respondent has filed a proceeding under Section 125 Cr.P.C. before the Family Court, Lucknow in Uttar Pradesh, which is registered as Criminal Case No. 1148/2016. By an order dated 02.09.2016, interim maintenance of a sum of Rs.3000/- (Rupees Three Thousand only) per month was allowed. The said order dated 02.09.2016 is assailed by the petitioner in this criminal petition filed under Section 482 Cr.P.C.

5. The learned counsel for the petitioner has submitted that in the meanwhile, Non-Bailable Warrant of Arrest has been issued against the petitioner by order dated 19.10.2023, passed by the learned Family Court, Lucknow in connection with Criminal Case No. 1148/2016.

6. On a query of the Court, as to the maintainability of the application under Section 482 Cr.P.C. in respect of orders under challenge which is passed by the learned Family Court, Lucknow, the learned counsel for the petitioner has submitted that as Non-Bailable Warrant of Arrest has been issued against the petitioner, he would be arrested on his appearance before the Family Court, Lucknow. Accordingly, she submits that the petitioner may be granted relief from being arrested while in transit or on appearance before the Family Court, Lucknow.

7. This Court is of the considered opinion that as the order has been passed

by the Family Court at Lucknow, this Court would not have the territorial jurisdiction to entertain this quashing application filed under Section 482 Cr.P.C.

8. Nonetheless, as the petitioner has projected himself to be resident of the State of Assam, the Court is inclined to grant 20 (twenty) days' time from today to the petitioner to appear before the learned Family Court, Lucknow and to take proper steps in the matter. In order to enable the petitioner to travel to Lucknow and to appear before the learned Family Court, Lucknow, it is provided that the NBWA issued by the learned Family Court, Lucknow on 19.10.2023 shall not be executed against the petitioner for a period of 20 (twenty) days' from the date of this order so as to enable the petitioner to appear before the learned Family Court, Lucknow and to take appropriate steps therein.

9. Accordingly, with an interim relief to the extent as indicated above, the criminal petition stands dismissed at the motion stage without issuing notice upon the respondent.

JUDGE

Comparing Assistant