

Court No. - 16

Case :- CRIMINAL MISC. WRIT PETITION No. - 1002578 of 2013

Petitioner :- Kamakhya Prasad

Respondent :- State Of U.P. Thru District Magistrate Sultanpur And Others

Counsel for Petitioner :- I.P. Singh

Counsel for Respondent :- Govt. Advocate

Hon'ble Shamim Ahmed,J.

Case is taken up in the revised list, however, none is present for the petitioner to press this petition of the year 2013.

Learned A.G.A.-I Sri Ashok Kumar Singh for the State is present.

Heard the learned A.G.A. and perused the record.

This writ petition has been filed with the following prayer:

“i. Issue a writ order or direction in the nature of writ of CERTIORARI quashing the judgment and Order dated: 21.12.2012 passed by the Additional Sessions Judge/Special Judge, E.C. Act, Sultanpur and also against the Judgment and Order dated: 03.11.2008 passed by the Additional Chief Judicial Magistrate, Room No. 17, District Sultanpur in Criminal Case No. 53/07 under Section 125 of Cr.P.C. P.S. Jagdishpur as contained in Annexure No. 1 and 2 to the Writ Petition.

ii. issue a writ, order or direction in the nature of MANDAMUS commanding the Opposite Parties not to give effect to the Judgment and Order dated: 21.12.2012 passed by the Additional Sessions Judge/Special Judge, E.C. Act, Sultanpur and also against the Judgment and Order dated: 03.11.2008 passed by the Additional Chief Judicial Magistrate, Room No. 17, District Sultanpur in Criminal Case No. 53/07 under Section 125 of Cr.P.C. P.S. Jagdishpur as contained in Annexure No. 1 and 2 to the Writ Petition.”

As per the averment made in the writ petition, it has been submitted that the order dated 03.11.2008 passed by the Addl. Chief Judicial Magistrate, Room No. 17, Sultanpur, by which the application under Section 125, Cr.P.C. was allowed and the order dated 21.12.2012 passed by the Addl. sessions Judge/Special Judge, E.C. Act, Sultanpur, vide which the revision filed against the order dated 03.11.2007 was dismissed, both these judgments of the court below are unjust, erroneous and bad in the eyes of law and have been passed, without appreciation of evidence produced before him.

Sri Ashok Kumar Singh, learned A.G.A.-1 submits that the

impugned orders passed by the courts below are just and proper and were passed in detail after considering the evidence on record. Vide order passed under Section 125, Cr.P.C. by the trial court only an amount of Rs. 1500.00 per month has been fixed for maintenance, which is a very meager amount, and remaining amount of arrears is directed to be paid within six months, in two installments. This direction is also just and proper and no interference is required in the impugned order. The revisional court also passed the order in correct perspective, considering the case and the evidence on record, thus, this writ petition lacks merits and is liable to be dismissed.

After considering the arguments advanced by the learned A.G.A. Sri Ashok Kumar Singh and going through the records, this court is also of the view that the impugned order dated 3.11.2008 and the revisional order dated 21.12.2012 have been rightly passed and no interference is required by this court. The trial court has fixed Rs. 1500.00 per month only as maintenance to the wife and regarding arrears two installments have been fixed to be paid within six months, thus, the order was passed reasonably, after considering the entire evidence on record. The revisional court has also passed the order in detail, after considering the entire evidence on record, thus, in the present price-hike time, amount of Rs. 1500.00 is very meager amount. The case filed under Section 125, Cr.P.C. by the parties is to get some amount for her livelihood and the amount fixed by the trial court is not such huge amount, which can be said to have been passed, without considering the evidence on record and passed in a hasty manner, thus, this court is of the view that the impugned orders was rightly passed and no interference is required therein. Accordingly, the writ petition lacks merits and is hereby **dismissed**.

Let the file be consigned to record-room.

(Shamim Ahmed, J.)

Order Date :- 26.7.2024

A.Nigam