

Court No. - 16

Case :- MATTERS UNDER ARTICLE 227 No. - 4499 of 2024

Petitioner :- Shammi Kumar

Respondent :- State Of U.P. Thru. Prin. Secy. Home Civil
Sectt. Lko And 5 Others

Counsel for Petitioner :- Suyash Bajpai, Abhishek Awasthi

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed, J.

Heard Sri Suyash Bajpai, learned counsel for the petitioner and Sri Ashok Kumar Singh, learned A.G.A.-I for the State as well as perused the record.

The instant writ petition has been filed seeking following main reliefs:-

"i. To issue any order or direction quashing the proceedings of the Criminal Case No.351 of 2017, under Section 125 Cr.P.C., pending in the court of Additional Principal Judge-2, Family Court, Lucknow.

ii. To issue any order or direction setting aside the order dated 22.09.2022 and the order dated 03.10.2023 passed by the learned Court of Additional Principal Judge-2, Family Court, Lucknow."

Learned counsel for the petitioner submits that the order passed by the learned trial court dated 03.10.2023 and 22.09.2022, whereby recovery warrant has been issued against the petitioner, who is husband of the respondent no.6 for the arrears of Rs.1,32,000/-, which has not been paid yet.

He further submits that the impugned orders have been passed against the evidence on record and the petitioner is not in position to pay the said amount as he is suffering from various diseases.

Learned A.G.A.-I for the State Opposite Parties submits that this writ petition has been filed with a ploy only with intention to not to pay the amount of maintenance as well as the arrears to the opposite party no.6, who is wife of the petitioner. He further submits that the petitioner is contesting the case at one or another forum to get some interim order so that he may not pay the arrears. He further submits that the recovery warrant was issued by the learned trial court vide order dated 22.09.2022 and even the learned Revisional Court had also passed the order dated 03.10.2023 after considering the entire

evidence on record. Thus, he submits that no interference is required by this Court in the impugned orders and the present writ petition is liable to be dismissed with a direction to the petitioner to pay the entire arrears amount to the opposite party no.6.

After considering the entire facts and circumstances of the case, this Court is of the view that the counsel for the petitioner has not been able to point out any such illegality or impropriety or incorrectness in the impugned orders which may persuade this Court to interfere in the same. The amount fixed for maintenance was Rs. 2,000/- per month to the wife-respondent No.6, 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 petitioner is husband of respondent No.6 has not been denied.

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

In view of the above, this writ petition lacks merit and stands **dismissed**.

Learned trial court is directed to recover the entire amount of arrears from the petitioner within three months from today in accordance with law.

Office is directed to immediately transmit a copy of this order to the learned trial court concerned.

Order Date :- 20.9.2024
Saurabh