



\$~34

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 1310/2020

VIKRANT

.....Petitioner

Through: Mr. M.L. Yadav, Advocate

versus

STATE & ANR

.....Respondents

Through: Mr. Shoaib Haider, APP for State

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

%

07.11.2024

1. By way of present petition, the petitioner seeks to assail the order dated 30.08.2018 passed by the learned Family Court, South East District, Saket Courts, New Delhi whereby the petitioner' application filed under Section 340 Cr.P.C. came to be dismissed with a cost of Rs.5,000/- in M. No.82/2017 titled as '*Smt. Radhika & Anr. Vs. Sh. Vikrant*'.
2. The short issue that arises in the present petition is of dismissal of an application under Section 340 Cr.PC. The petitioner claims that there were two proceedings preferred by the parties – one filed by the respondent No.2 herein, seeking maintenance and another by the present petitioner under Section 25 of the Guardian and Wards Act for the custody of the minor child. Both the applications/petitions were pending before the same Family Court.
3. Apparently, the petitioner had preferred an application under Section 340 Cr.PC in the former petition, i.e., the maintenance petition and no such application had been filed in the latter case.



4. The petitioner claims that on 30.08.2018, identical orders were passed in both the aforesaid cases without there being any application filed under Section 340 Cr.P.C. in the former case, i.e., the maintenance petition filed by the respondent No.2. Learned counsel for the petitioner states that vide the impugned order passed in both the cases, a cost of Rs.5,000/- has been imposed while dismissing the said application.

5. The instant petition remains pending for the last four years, however, neither any application nor any record of either of the petitions has been placed on record. Today, learned counsel for the petitioner has handed over an order dated 30.08.2018 passed in G.P. No.20/2017 titled as '*Vikrant v. Radhika*'. The same has been taken on record. A perusal of both the orders would show that the application seeking an early disposal of the said application under Section 340 Cr.P.C. was dismissed with cost of Rs.5,000/.

6. In view of the aforesaid facts and circumstances, the present petition is disposed of with the direction that in case no application under Section 340 Cr.P.C. is filed in the petition under Section 25 of the Guardian and Wards Act, the petitioner would not be liable to pay the cost of Rs.5,000/-. However, this would be subject to the verification by the learned Family Court.

7. A copy of this order be communicated to the concerned Family Court.

MANOJ KUMAR OHRI, J

NOVEMBER 7, 2024/rd