HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 45287 of 2026

Ajey Kumar

.....Applicant(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

Counsel for Applicant(s) : Akhilesh Chandra Shukla, Pradeep Kumar

Counsel for Opposite Party(s) : G.A.

Court No. - 72

HON'BLE DEEPAK VERMA, J.

1. Supplementary affidavit filed today, is taken on record.

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

3. This application under Section 528 BNSS has been filed by the applicant with the prayer to quash the order dated 14.08.2026 passed by Additional Principal Judge, Family Court, Court No. 1, Ghaziabad in Case No. 707 of 2023 upon recall application filed by the applicant to recall ex-parte proceeding imposing cost upon applicant under Section 125 Cr. P.C., Police Station Maduban Bapudham, District Ghaziabad.

4. Facts in brief are that opposite party no. 2-Smt. Kalpana Verma filed two interim maintenance applications under Section 125 Cr. P.C. and concerned court proceeded with the case ex-parte vide order dated 06.09.2024, against which, applicant moved an application on 23.06.2025 to set aside the ex-parte order dated 06.09.2024 and court concerned allowed the application vide order dated 11.04.2025 with cost of Rs. 2,000/-. The opposite party no.2/complainant, moved two applications bearing Application Nos. 14Ga and 5A for interim maintenance. It is apparent from record that applicant has filed objection against the interim maintenance application No.14Ga

and the aforesaid application has been dismissed, as being not pressed vide order dated 31.07.2025. Thereafter, court concerned entertained the application 5A of the opposite party no.2 for interim maintenance and directed the case to be listed on 26.08.2025 for disposal of interim maintenance application 5A. Since the applicant had already filed objection in another application, as such, he was under impression that his objection would be considered. The court concerned passed the order dated 14.08.2026 and allowed the recall application of the applicant on payment of Rs. 20,000/- as expenses and recall the order dated 09.02.2026 and permitted the applicant to file their objection upon interim application filed by opposite party no.2, by the same order, order dated 12.05.2026 is also set aside. It is clear from the order dated 09.02.2026 that no opportunity was given to the applicant for filing objection on the application moved by the opposite party no.2 for recalling that order, thereafter, applicant moved recall applications bearing application 31Ba and 33Ba, but the court concerned by order dated 14.08.2026 allowed the recall applications with the cost of Rs. 20,000/-.

5. It is argued by the learned counsel for the applicant that since opposite party no.2 filed two applications with regard to interim maintenance and applicant also filed objection. One application has been withdrawn by the opposite party no.2 herself and applicant was under impression that he had already filed objection against the interim maintenance application and that objection shall be considered by the court concerned, but the court concerned passed the order in arbitrary manner by imposing cost of Rs. 20,000/- and whereas, it is apparent from the record that the applicant in compliance of order filed objection.

6. On considering the facts and circumstances of the case and submissions raised by the learned counsel for the parties, it is clear that applicant filed an objection against the application 14Ga moved by the opposite party no.2 for interim

maintenance, which is apparent from the order dated 31.07.2025, as such, present application under Section 528 BNSS is **disposed of** with a direction that applicant shall not deposit Rs. 20,000/- as a cost and applicant is permitted to move an objection within two weeks from today and the court concerned after hearing both the parties shall decide the interim maintenance application within a further period of three weeks, thereafter.

October 30, 2026
T.S.

(Deepak Verma,J.)

Digitally signed by :-
TRIBHUWAN SINGH
High Court of Judicature at Allahabad