

**Court No. - 71**

**Case :-** APPLICATION U/S 482 No. - 16024 of 2023

**Applicant :-** Imran Hasan

**Opposite Party :-** State of U.P. and Another

**Counsel for Applicant :-** Shyam Babu Vaish

**Counsel for Opposite Party :-** G.A.

**Hon'ble Samit Gopal,J.**

1. List revised.

2. Heard Shri Shyam Babu Vaish, learned counsel for the applicant, Sri B.B. Upadhyay, learned AGA for the State and perused the records.

3. The present application under Section 482 Cr.P.C. has been filed by the applicant–Imran Hasan with the prayer to quash the impugned order dated 16.6.2022 passed by Addl. Principal Judge, Family Court, Gautam Buddh Nagar in a Criminal Misc. Case No.106/2022, Smt. Sageer Bano Vs. Imran Hasan u/s 128 Cr.P.C., District Gautam Buddh Nagar and to stay the effect and operation of aforesaid impugned order.

4. Learned counsel for the applicant argued that the applicant is the husband of opposite party no.2. It is argued that due to dispute between them, the opposite party no.2 filed an application under Section 125 Cr.P.C. being Case No. 187 of 2011. In the said case vide ex-parte order dated 18.8.2012 of the trial court, applicant had been directed to pay a sum of Rs.2000/- per month to his wife and Rs.1,000/- to each of three children from the date of order. Thereafter opposite party no.2 filed an application under Section 128 Cr.P.C. after which recovery warrant for recovery of arrears of amount was issued on 16.06.2022 against which he filed the present application. Learned counsel for the applicant argued that the applicant is a labour and he has other family responsibilities due to he could not deposit the said amount as ordered to be paid to opposite party no.2 within time. Learned counsel for the applicant argued that the applicant is not challenging the order impugned dated 16.6.2012 on merits but only confines his prayer to the effect that he may be permitted to deposit arrears of maintenance within a period of three months from today. It is argued that the applicant shall abide by the judgment and order dated 18.08.2012.

5. Learned counsel for the State has also been heard.

6. In view of the above, the prayer for quashing of proceedings is dismissed as not pressed.

7. After having heard learned counsel for the parties and perusing the record and also considering the fact that the applicant is not challenging the order dated 16.6.2022 on merits but only confines his prayer to afford him an opportunity to deposit the amount of arrears of maintenance within a period of three months, it is provided that if the applicant files an application along with affidavit within two weeks from today before the Court concerned giving undertaking that he shall pay the arrears of maintenance in three equal monthly installments, he shall be permitted to pay the arrears of maintenance within three equal installments subject to the condition that he shall continue to pay the regular amount of maintenance as has been ordered by the Family Court, no coercive measure shall be taken against the applicant.

8. The applicant shall comply with the said order within the said time failing which the court concerned may proceed in accordance with law against him.

9. The applicant stands disposed of with the aforesaid direction.

(Samit Gopal, J.)

**Order Date :- 2.5.2023**

Gaurav