



2026:AHC:65856

HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 52164 of 2025

Vikas Kanaujiya

.....Applicant(s)

Versus

State Of U.P. And 2 Others

.....Opposite
Party(s)

Counsel for Applicant(s) : Gaurav Kumar Shukla, Shivam Kumar Mishra

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

Court No. - 81

HON'BLE CHAWAN PRAKASH, J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State.
2. The present application under Section 528 BNSS has been filed to quash the impugned recovery warrant dated 24.7.2023 passed by the Additional Principal Judge, Family Court No.3, Deoria in Execution Suit No.420 of 2020 (Anshu and Another Vs. Vikas) under Section 128 Cr.P.C., Police Station Akauna, District Deoria.
3. Learned counsel for the applicant submits that the marriage of the applicant was solemnized with opposite party No.2 on 6.5.2018. After some time of the marriage, opposite party No.2 started quarrelling with the family members of the applicant. It is further submitted that opposite party No.2 filed an application under Section 125 Cr.P.C. in the year 2020, which was decided ex parte by the learned Family Court vide judgment and order dated 22.8.2022, directing the applicant to pay Rs.5,000/- per month to opposite party No.2 and Rs.3,000/- per month to opposite party No.3. It is next submitted that thereafter, opposite party No.2 filed an execution application on 8.9.2022 for enforcement of the aforesaid ex parte order dated 22.8.2022, which was registered as Execution Suit No. 420 of 2022. The learned Family Court, vide order dated 24.7.2023, issued a recovery warrant against the applicant. Learned counsel for the applicant further submits that the applicant is ready to join the proceedings and is also willing to reside with

opposite party No.2. It is, therefore, prayed that the impugned recovery warrant dated 24.7.2023 may kindly be set aside.

4. Per contra, learned A.G.A. has vehemently opposed the submissions advanced on behalf of the applicant and submitted that the learned Family Court has not committed any illegality in passing the impugned order. It is submitted that the applicant has failed to pay the arrears of maintenance, and therefore, the recovery warrant has rightly been issued against him. Hence, the present application is liable to be dismissed.

5. Having heard learned counsel for the parties and perused the record, it transpires that the marriage of the applicant was solemnized with opposite party No.2 on 6.5.2018 as per Hindu rites and customs, and one child was born out of the said wedlock. Opposite party No.2 filed an application under Section 125 Cr.P.C., which was decided ex parte vide judgment and order dated 22.8.2022. Thereafter, opposite party No.2 initiated execution proceedings under Section 128 Cr.P.C. for recovery of arrears of maintenance.

6. The applicant has filed a certified copy of proceeding of Family Court, which is at paper no.36 to 48 to the instant application. It appears from the proceedings of Family Court that the learned Family Court, vide order dated 24.7.2023, issued a recovery warrant against the applicant. The proceedings further reveal that the applicant had appeared before the Family Court and moved an application for recall of the recovery warrant, and the matter was referred to mediation. However, as per the order dated 2.9.2025, the applicant remained absent and failed to abide by the terms settled before the Mediation Centre of the Court below. Consequently, the learned Family Court proceeded to issue recovery against the applicant. Thus, from the perusal of the record, it cannot be said that the learned Family Court has committed any illegality or irregularity in passing the impugned order.

7. However, the applicant is granted liberty to appear before the court concerned within a period of three weeks from today. It is further directed that for a period of three weeks from today or till the appearance of the applicant before the court concerned, whichever is earlier, no coercive action shall be taken against the applicant in the aforesaid case.

8. In case the applicant appears before the court concerned within the aforesaid period, the concerned Family Court shall proceed in the matter in

accordance with law.

9. Accordingly, the present application is **disposed of**.

(Chawan Prakash,J.)

March 30, 2026

Md Faisal