

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.89 of 2017**

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Rajeev Kumar Gupta

.... Petitioner/s

Versus

Uma Kumari

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sheel Bhadra Jha

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

2 23-01-2017

Heard the learned counsel for the petitioner.

This application under Article 227 of the Constitution has been filed by the petitioner praying for quashing the entire criminal proceeding initiated under Section 128 Cr.P.C. by the wife-respondent which has been registered as Misc. Case No.312 of 2014 which is pending before the Principal Judge, Family Court, Munger.

The learned counsel for the petitioner admitted that after notice, the husband-petitioner has already appeared in the miscellaneous case and has filed reply to the application under Section 128 Cr.P.C. He has filed this application under Article 227 of the Constitution of India direct before the High Court for quashing the entire criminal proceeding.

It may be mentioned here that the said proceeding has been initiated for enforcement of the recovery of permanent



alimony of Rs.1,25,000/- passed by the court in Misc. Case No.116 of 2014.

In view of the above facts and circumstances of the case, there is no question of quashing the proceeding arises. Moreover, no order of the Principal Judge, Family Court is under challenge in this miscellaneous case.

The Hon'ble Supreme Court in the case of **Shalini Shyam Shetty and another v. Rajendra Shankar Patil, (2010) 8 Supreme Court Cases 329** has held that the High Court never exercises original jurisdiction under Article 227 of the Constitution of India. Moreover, all the questions raised by the petitioner in this civil miscellaneous application are all disputed questions of fact and that cannot be decided in this civil miscellaneous application for the purpose of quashing the criminal proceeding initiated under Section 128 Cr.P.C. which is in the nature of execution.

Thus, this civil miscellaneous application is dismissed.

(Mungeshwar Sahoo, J)

Saurabh/-

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