

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.327 of 2013

Birendra Kumar Sahu.

....

Petitioner

-versus-

Reena @ Lina Kumari Sahu.

....

Opposite Party

CORAM: JUSTICE S.PUJAHARI

ORDER
22.06.2022

Order No.

06.

1. This matter is taken up through Hybrid mode.
2. The petitioner in this application under Section 482 of the Code of Criminal Procedure (for short “Cr.P.C.”) has prayed for quashing of the order dated 11.02.2009 passed by the learned S.D.J.M., Baragarh in C.M.C. No.12 of 2008 directing him to pay interim maintenance to the opposite party –wife under Section 23 of the Protection of Women from Domestic Violence Act, 2005.
3. Heard the learned counsel for the petitioner and the learned counsel for the opposite party.
4. It is stated by the learned counsel for the petitioner that since in a decree of divorce vide RFA No.9 of 2011 the learned Addl. District Judge, Boudh has already been granted permanent alimony and the same has been refused to be received by the

opposite party-wife, the impugned order of interim maintenance under Section 23 of the Protection of Women from Domestic Violence Act, 2005 could not have been passed by the learned S.D.J.M., Baragarh. However, the learned counsel for the petitioner has not placed any material before this Court to show that whether the aforesaid decree has reached its finality or not.

5. Considering the aforesaid facts and circumstances of the case, so also the submission advanced on behalf of the learned counsel for the petitioner, this Court is not inclined to interfere with the impugned order, especially when an appeal was provided against the order impugned and the petitioner instead of presenting the appeal has filed this CRLMC challenging the same.

6. Hence, this CRLMC filed challenging the impugned order being devoid of merit stands dismissed. However, liberty is given to the petitioner to challenge the maintainability of the proceeding, if in the meanwhile the decree of divorce has already reached its finality and the materials on record do not disclose that parties were in domestic relationship, when the domestic violence stated to have been committed.

7. A copy of this order be communicated to the Court below forthwith.

(S. Pujahari)
Judge

MRS