

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2756 of 2012

Sri Deepak Kumar Besara ***Petitioner***
-versus-
Smt. Tulasi Devi ***Opposite Party***

CORAM: JUSTICE S. PUJAHARI

ORDER

26.07.2022

Order
No.

10.

1. This matter is taken up through hybrid mode.
2. This application under Section 482 of Cr.P.C. has been filed by the Petitioner with a prayer to quash the order dated 18th May, 2012 passed by the learned S.D.J.M., Balasore in Misc. Case No.167 of 2007 wherein prayer to release the amount of Rs.41,000/- deposited towards arrear maintenance in his favour was refused.
3. Heard.
4. The grievance of the Petitioner in this case is that though the Petitioner pursuant to an order of this Court deposited an amount of Rs.41,000/- towards interim maintenance of his wife (Opposite Party No.2), but in the meanwhile, as the Opposite Party No.2-wife received permanent alimony, she is not entitled the amount so deposited.

Hence, the learned S.D.J.M., Balasore could not have refused to release the amount deposited by him.

5. As it appears, the learned Magistrate in the absence of any order of this Court with regard to disbursement of the same, pass the impugned order. But, it is stated that in the meanwhile, the very Criminal Revision wherein the interim order was passed to deposit the amount has since been dismissed as withdrawn. Since the Criminal Revision has already been withdrawn, the amount deposited pursuant to an interim order should have been released in faovur of the Petitioner in absence of any contesting claim by the Opposite Party-wife, moreso when she stated to have received the permanent alimony already.

6. Taking note of the aforesaid facts and submissions, this Court dispose of this Criminal Misc. Case with a direction to the learned S.D.J.M., Balasore to ascertain the fact and also notice the Opposite Party-wife, who is the Petitioner in the aforesaid Misc. Case, and if she contest the same on such claim of the Petitioner, after hearing her pass a reasoned order taking note of the fact that she has received permanent alimony and if she did not contest the same, release the amount in favour of the Petitioner in the manner known to law.

7. However, the aforesaid should not be construed, if the Opposite Party-wife contest the same, but the learned S.D.J.M.,

Balasore would decide the same in view of the permanent alimony granted to the Opposite Party-wife.

(S. Pujahari)
Judge

DA

