

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.2819 of 2013

Ashok Kumar Jena ***Petitioner***

-versus-

Susama Jena ***Opposite Party***

CORAM: JUSTICE S.PUJAHARI

ORDER

20.06.2022

Order
No.

10. 1. This matter is taken up by Hybrid mode.
2. This application under Section 482 Cr.P.C. has been filed by the Petitioner for quashment of the order dated 26.02.2009 passed by the learned S.D.J.M., Berhampur in M.C No.221 of 2002 which was confirmed by the learned Addl. Sessions Judge-cum-Special Judge (Vigilance), Berhampur in Criminal Revision Petition No.27 of 2011/Criminal Revision Petition No.15/2009-GDC.
3. It appears that the Petitioner-husband challenged the order dated 26.02.2009 passed by the learned S.D.J.M., Berhampur in M.C No.221 of 2002 before the revisional court on the ground that the Opposite Party-wife has voluntarily left the matrimonial home and living with the elder brother of the Petitioner. The revisional court dismissed the said revision on the ground that there is no evidence on record to prove that the

Opposite Party-wife is living with the elder brother of the Petitioner and accordingly dismissed the revision.

4. This case is pending since 2013 awaiting appearance of the Opposite Party. However, as it appears the revisional court has rendered such a finding of fact. The Petitioner, however, could not bring to the notice of the Court that such finding of revisional court is perverse being contrary to the evidence available on record or law while confirming the impugned order of the learned S.D.J.M., Berhampur. In such premises, no useful purpose is going to be served awaiting the appearance of the Opposite Party more so when this Court is not inclined to interfere with the impugned order passed in favour of the Opposite Party. Hence, this Criminal Misc. Case, which appears to be the guise of second revision, is devoid of merit.

5. For the said reason, this Court without awaiting the appearance of the Opposite Party in a petition under Section 125 Cr.P.C. disposes of the same inasmuch as the same is not going to cause any prejudice to the Opposite Party.

(S. Pujahari)
Judge

PKS