

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**CRLMC No.4856 of 2011**

***Bhishikeshan Bhol***

....

***Petitioner***

***-versus-***

***State of Orissa & another***

....

***Opposite Parties***

**CORAM: JUSTICE S.PUJAHARI**

**ORDER**

**09.02.2022**

**Order**  
**No.**

29.

1. This matter is taken up by Hybrid mode.
2. This application under Section 482 of Cr.P.C. has been filed by the Petitioner for quashment of the order dated 28.10.2011 passed by the learned Judge, Family Court, Cuttack in C.R.P No.491 of 2008 issuing N.B.W.(A) against him for non-payment of interim maintenance to the opposite party-wife.
3. It appears that for non-compliance of the peremptory order, RPFAM No.2 of 2009 was dismissed. Thereafter, the Petitioner filed CMAPL No.214 of 2010 for restoration of RPFAM No.2 of 2009. This Court in CMAPL No.214 of 2010 directed the Petitioner to file requisites for issuance of notice on the limitation matter on the sole opposite party by registered post with A.D. Since the Petitioner had not filed the requisites pursuant to the order date 17.1.2017, CMAPL No.214 of 2010 was also dismissed. Thereafter, the Petitioner again filed this

Criminal Misc. Case challenging the order passed by the learned Judge, Family Court, Cuttack in Execution Case No.491 of 2008. This Court vide order dated 29.12.2011 granted stay of Execution Case No.491 of 2008 till the next date. Thereafter the interim order dated 29.12.2011 was not extended. Opposite Party no.2-wife having filed Misc. Case No.320 of 2012 for vacation of stay granted on 29.12.2011, this Court vide order dated 08.04.2019 passed the following order:

“This application has been filed by opposite party no.2 with a prayer to vacate the stay order in Execution Case No.491 of 2008 on the file of the learned Judge, Family Court, Cuttack.

As seen from the last order and number of previous orders any order of stay does not appear to be continuing.

This misc. case is dismissed as infructuous.”

4. Learned counsel for the Petitioner submits that since this Court granted stay vide order dated 29.12.2011, the court in seisin over the matter could not have proceeded with the same. Therefore, the impugned order is liable to be quashed.

5. The Apex Court vide order dated 28.03.2018 in Criminal Appeal No.1375-1376 of 2013 (**Asian Resurfacing of Road Agency Pvt. Ltd. & another vrs. Central Bureau of Investigation**) in paragraph-35 held as follows:

“35. In view of above, situation of proceedings remaining pending for long on account of stay needs

to be remedied. Remedy is required not only for corruption cases but for all civil and criminal cases where on account of stay, civil and criminal proceedings are held up. At times, proceedings are adjourned sine die on account of stay. Even after stay is vacated, intimation is not received and proceedings are not taken up. In an attempt to remedy this, situation, we consider it appropriate to direct that in all pending cases where stay against proceedings of a civil or criminal trial is operating, the same will come to an end on expiry of six months from today unless in an exceptional case by a speaking order such stay is extended. In cases where stay is granted in future, the same will end on expiry of six months from the date of such order unless similar extension is granted by a speaking order. The speaking order must show that the case was of such exceptional nature that continuing the stay was more important than having the trial finalized. The trial Court where order of stay of civil or criminal proceedings is produced, may fix a date not beyond six months of the order of stay so that on expiry of period of stay, proceedings can commence unless order of extension of stay is produced.”

6. Pursuant to the aforesaid order of the apex Court, this Court issued the necessary circular to different subordinate courts to that effect. Therefore, the contention advanced by the Petitioner that in view of the interim order passed by this Court on 29.12.2011 in Misc. Case No.3365 of 2011 the trial court cannot proceed with the matter is without any substance.

7. So far as the prayer made by the Petitioner in this case to set aside the coercive steps taken against the Petitioner to levy the maintenance ordered, the same is devoid of merit as RPFAM No.2 of 2009 filed against the ex parte order of

maintenance has already been dismissed vide peremptory order dated 17.01.2017.

8. Accordingly, this CRLMC stands dismissed.

**(S. Pujahari)**  
**Judge**

*PKS*

