

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.613 of 2022

Karunakar Das

....

Petitioner

-versus-

Arunjyoti Behera

....

Opposite Party

CORAM: JUSTICE S.PUJAHARI

ORDER

12.07.2022

Order No.

04.

1.This matter is taken up through Hybrid mode.

2.Heard learned counsel for the Petitioner.

3.This application under Section 482 of Cr.P.C. has been filed by the Petitioner with a prayer to quash the order dated 27.11.2014 passed by the learned Judge, Family Court, Bhubaneswar in Criminal Execution No.54 of 2014 arising out of CMC No.12 of 2007 wherein D.W and conditional N.B.W. (A) has been issued against him.

4. It appears that the Petitioner-husband has been saddled with the liability to pay the maintenance to his erstwhile wife @ Rs.3,000/- per month and as he did not pay the same, Opposite Party-wife filed Criminal Execution No.54 of 2014 against him to levy the maintenance ordered. The learned Judge, Family Court, Bhubaneswar vide impugned order dated 27.11.2014 issued D.W. and conditional N.B.W. against the Petitioner-husband to levy the

same. The Petitioner has come to this Court challenging the said order.

5. Learned counsel appearing for the Petitioner submits that the marriage between the Petitioner-husband and the Opposite Party-wife has been dissolved by a decree of divorce in the meanwhile and the Opposite Party-wife has remarried to another person. Therefore, the Opposite Party-wife is not entitled to get maintenance as ordered by the learned trial court.

6. However, it is not in dispute that the Petitioner-husband has not approached the trial court under Section 127 Cr.P.C. to rescind the order of maintenance. The order of maintenance passed under Section 125 Cr.P.C. is still continuing. In such premises, challenging the execution case on the ground stated is devoid of merit at the stage.

7. But, learned counsel for the Petitioner submits that the Petitioner is ready to pay the maintenance as ordered in four equal instalments to the Opposite Party-wife and till then D.W. and conditional N.B.W. issued against the Petitioner be stayed.

8. Considering such prayer, it is directed that if the Petitioner deposits the amount in four equal installments by paying the first installment by 10th of August, 2022 and other three installments on 10th of every successive month, D.W. and conditional N.B.W. issued against him shall not be executed. However, failure to comply with the same by the Petitioner, D.W. and conditional N.B.W shall be executed. Furthermore, the aforesaid payment

made by the Petitioner shall not preclude the Petitioner to file an appropriate application to rescind the order of maintenance as the Opposite Party-wife stated to have remarried in the meanwhile.

9. With the aforesaid order, this CRLMC stands disposed of.

10. Urgent certified copy of this order be granted on proper application.

(S. Pujahari)
Judge

PKS

