

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 381 OF 2021

Sovan Das

..... *Petitioner*
Mr. S.S. Chaini, Adv.

-versus-

Kiran Prasad

..... *Opposite Party*
Mr. D.Mund, AGA

CORAM:
JUSTICE V. NARASINGH

ORDER
31.03.2022

Order No.
05.

1. This matter is taken up through Hybrid Mode.
2. Heard learned counsel for the petitioner and learned Additional Government Advocate for the State.
3. Being aggrieved by the order taking cognizance by the learned S.D.J.M.,(Sadar), Cuttack by order dtd. 10.01.2019 passed in 1.C.C. Case No. 1102 of 2018, this CRLMC has been filed.
4. It is urged by the learned counsel for the petitioner that without examining the maintainability in violation of the statutory prescription as envisaged under Section-138 (b) of the Negotiable Instrument Act, the learned Magistrate has taken cognizance.
5. Taking into account the peculiar facts of the present case, this Court feels that the interest of justice will be sub-served if the

learned Court below deals with the factum of maintainability at the first instance before proceeding further with the case.

6. Accordingly, it is open for the petitioner to move the learned forum below in this regard.

7. Since this order is passed at the admission stage, it would be open to the Opposite Party to seek variance of it.

8. With such observation, the CRLMC stands disposed of.

9. Urgent certified copy of this order be granted as per rule.

Balaram

*(V.Narasingh)
Judge*

