

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

**RPFAM No. 75 of 2022**

***Manoranjan Raj***

***..... Petitioner***

Mr. Achyutananda Pattanaik, Advocate

***-versus-***

***Tapaswini Mohanty***

***.... Opp. Party***

**CORAM:**

**JUSTICE K.R. MOHAPATRA**

**ORDER**

**11.05.2022**

**Order No.**

1. This matter is taken up through Hybrid mode.
2. Petitioner in this RPFAM seeks to assail the order dated 8<sup>th</sup> April, 2022 (Annexure-7) passed in Criminal Execution Case No.72 of 2021 (arising out of Cr.P No.84 of 2014), whereby learned Judge, Family Court, Bhubaneswar issued DW to concerned Police Station for realization of the arrear amount of maintenance in terms of order passed in Cr.P No.84 of 2014.
3. Mr. Pattanaik, learned counsel for the Petitioner submits that the marriage between the Petitioner the Opposite Party has already been dissolved vide judgment dated 3<sup>rd</sup> August, 2019 passed by learned Judge, Family Court, Cuttack in CP No.926 of 2012, in which the Opposite Party has received a permanent alimony of Rs.5.00 lakh. He further submits that the Opposite Party is leading adulterous life. During pendency of the Civil Proceeding, she filed Cr.P No.84 of 2014 before the learned Judge, Family Court, Bhubaneswar. The Petitioner has never received any notice in the said criminal proceeding. However, the criminal proceeding was disposed of ex parte vide judgment

dated 5<sup>th</sup> August, 2017 directing the Petitioner to pay a maintenance of rs.2,400/- per month to the Opposite Party from the date of filing of the said petition on 8<sup>th</sup> August, 2014.

3.1 It is his submission that on a bare reading of order dated 5<sup>th</sup> August, 2017 passed in Cr.P. No.84 of 2014 (Annexure-1), it reveals that the Petitioner has suppressed the pendency of Civil Proceeding No.926 of 2012. The Petitioner, however, upon receipt of notice in Execution Case only could know about the said order passed in Cr.P. No.84 of 2014 and has filed a petition in CMC No.4 of 2021 under Section 126(2) Cr.PC for setting aside of the said order, which is pending for consideration. In the meantime, the Opposite Party filed Criminal Execution Case No.72 of 2021 for execution of order dated 8<sup>th</sup> April, 2022 (Annexure-7). In that view of the matter, Petitioner prays for setting aside of said order under Annexure-7 and to give him opportunity to take part in the Criminal Execution Case No.72 of 2021.

4. Taking into consideration the submissions of learned counsel for the Petitioner and on perusal of record, it appears that Cr.P. No.84 of 2014 was disposed of ex parte vide order dated 5<sup>th</sup> August, 2017 directing the Petitioner to pay maintenance of Rs.2,400/- per month as maintenance to the Opposite Party. It further appears due to non-payment of said maintenance Criminal Execution Case No.72 of 2021 has been initiated by the Opposite Party, which is pending before learned Judge, Family Court, Bhubanesar. Mr. Pattanaik, learned counsel for the Petitioner submits that the Petitioner has already entered appearance in Criminal Execution Case No.72 of 2021.

5. In that view of the matter, this Court disposes of the RPFAM with a direction that in the event Petitioner files an application/objection before learned Judge, Family Court, Bhubaneswar in the Criminal Execution Case No.72 of 2021 detailing the events as aforesaid within a period of two weeks hence along with certified copy of this order, learned Judge, Family Court, Bhubaneswar shall do well to consider the same in accordance with law before proceeding in the said case.

Issue urgent certified copy of the order on proper application.

**(K.R. Mohapatra)**  
**Judge**



s.s.satapathy