

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.173 of 2022

Manoj Kumar Nayak

....

Petitioner

Mr. M.K.Nayak,
(In Person)

-versus-

***Surya Narayan Mohanty and
another***

....

Opposite Parties

Mr.P. Tripathy,
Addl. Standing Counsel

Mr. A.K.Parida, Advocate
(for O.P. No.2)

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

18.11.2022.

Order No.

06.

1. This matter is taken up through hybrid mode.

2. The Petitioner, who appears in person, is the complainant in I.C.C. No.247/2020 of the court of learned S.D.J.M., Berhampur which is a case under Section 143 of the Negotiable Instruments Act, 2018 (for short 'N.I. Act'). After appearance of the accused, an order was passed by learned S.D.J.M., Berhampur on 7th January, 2022 wherein it was stated that upon the particulars of the offence under Section 138 of the N.I. Act being read over and explained to the R/L for the accused, he

pleaded not guilty and claimed for trial. An application filed by the complainant for interim compensation under Section 143-A of the N.I. Act was directed to be put up on another day for hearing. The petition was ultimately taken up for hearing on 18th February, 2022. On that day, learned S.D.J.M. considered the rival submissions but held that it not being the trying court, the petition under Section 143-A cannot be considered by him. Therefore, the petition was rejected and the case record was transmitted to the designated Court for N.I. Act cases.

3. After going through the case record this Court does not approve of the procedure adopted by learned S.D.J.M inasmuch as if the learned S.D.J.M., felt that the matter ought to be heard by the designated court, the said order could have been passed on the first day, i.e. on 7th January, 2022. However, learned S.D.J.M. for the reasons best know to him adjourned the matter specifically for hearing on the petition under Section 143-A of the N.I. Act ultimately to reject it by holding that he is not competent to consider the same. In all fairness if learned S.D.J.M was of such view then instead of rejecting the petition, the entire case record along with the petition should have been transmitted to the designated Court.

4. Be that as it may, since there is a designated Court to hear N.I. Act cases, it is open to the Petitioner to move the said Court by filing appropriate application under Section 143-A of

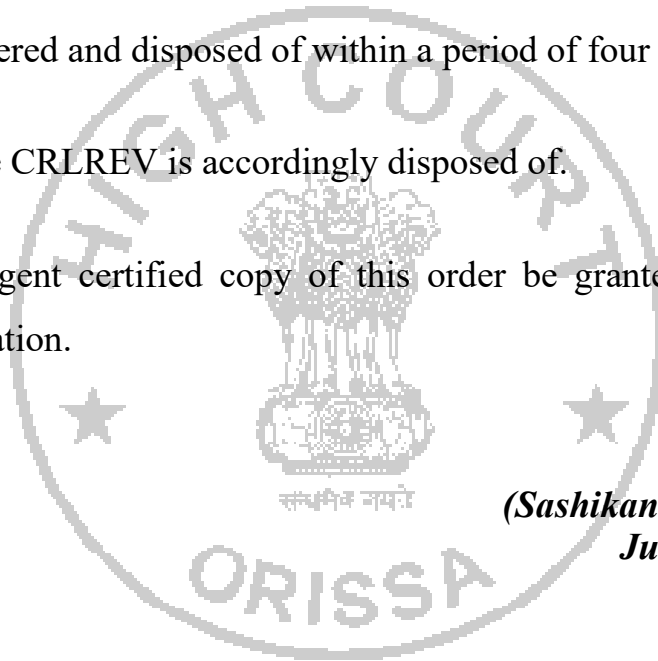
the N.I. Act afresh. If such an application is filed, the same shall be considered and disposed of in accordance with law.

5. It is submitted at the bar that there may be a situation where the Presiding Officer of the designated Court might have been transferred to another Court. In such event, the learned S.D.J.M. shall consider the application or transmit the case to the concerned Magistrate for hearing. In any case, the application under Section 143-A of the N.I. Act shall be considered and disposed of within a period of four weeks.

6. The CRLREV is accordingly disposed of.

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

AKB



(Sashikanta Mishra)
Judge