

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1615 of 2022

Kishore Kumar Joshi

....

Petitioner

-versus-

Satyabrata Mallick & another

....

Opposite Parties

CORAM: JUSTICE S.PUJAHARI

ORDER

05.07.2022

Order
No.

01.

1. This matter is taken up by Hybrid mode.
2. This application under Section 482 Cr.P.C. has been filed by the Petitioner for quashment of the order dated 23.05.2022 passed by the learned S.D.J.M (S), Cuttack in ICC No.134 of 2022 wherein the learned S.D.J.M has rejected the petition filed under Section 205 Cr.P.C.
3. Learned counsel for the Petitioner submits that due to illness the Petitioner could not appear in the trial court on 14.03.2022 as such B.W has been issued against him. Learned trial court rejected the petition filed under Section 205 Cr.P.C to dispense with the personal appearance of the Petitioner on the ground that the B.W. has already been issued against him.
4. Considering the facts and the submissions made, especially the fact that the aforesaid cannot be a ground to refuse the prayer under Section 205 Cr.P.C, this Court disposes of this Criminal Misc. Case giving liberty to the Petitioner to file a

fresh petition under Section 205 Cr.P.C. along with the certified copy of the order within a week hence. If such a petition is filed within the time stipulated, the trial court shall consider the same taking into consideration the law laid down by the apex Court in the case of **Bhaskar Industries Ltd. Vrs. M/s. Bhiwany Denim and Apparels Ltd.**, reported in **AIR 2001 S.C. 3625** within fifteen days of such filing. Till then B.W. issued against the Petitioner shall not be executed.

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

(S. Pujahari)
Judge

PKS

