

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1620 of 2022

Tilak Naik.

....

Petitioner

-versus-

State of Odisha & another.

....

Opposite Parties

CORAM: JUSTICE S.PUJAHARI

ORDER

07.07.2022

Order No.

- 01.
1. This matter is taken up through Hybrid mode.
 2. The petitioner in this application under Section 482 of the Code of Criminal Procedure (for short “Cr.P.C.”) has prayed for quashing of the order dated 08.01.2022 passed by the learned ASJ (W), Jagatsinghpur in Execution Misc. Case No.16 of 2021 issuing D.W.(A) along with N.B.W. against him.
 3. Heard the learned counsel for the petitioner.
 4. As it appears, the opposite party no.2 filed a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short “the D.V. Act, 2005”) vide Misc. Case No.69 of 2018 wherein order of interim relief was granted

to the opposite party no.2. The said order having been challenged before the learned Appellate Court vide Criminal Appeal No.16 of 2020 which was disposed of by the learned Sessions Judge, Jagatsinghpur vide order dated 14.12.2021 modifying the order with regard to payment of money. Thereafter, as the petitioner did not comply with the order, a petition was filed for execution of the order passed in Misc. Case No.69 of 2018 and when the petitioner did not respond to the notice issued, D.W. along with N.B.W. was issued against him. Being aggrieved by the said order, the petitioner has come to this Court by filing this CRLMC.

5. It is submitted by the learned counsel for the petitioner that the petitioner was already saddled with the liability in Civil Proceeding filed under Section 13(1)(A) of the Hindu Marriage Act by paying interim maintenance of Rs.5000/- per month under Section 24 of the Hindu Marriage Act to the opposite party no.2, the learned Asst. Sessions Judge (W), Jagatsinghpur could not pass the order of maintenance under the D.V. Act, 2005. His further submission is that the petitioner has been paid much more amount than the liability saddled with him under the D.V. Act, 2005.

6. Considering the facts and circumstances of the case, this Court is of the view that since the aforesaid contention of the learned counsel for the petitioner in an execution proceeding is without any substance, inasmuch as the order

passed under Section 12 of the D.V. Act, 2005 is reached its finality. However, this Court directs that if the petitioner appears before the learned Executing Court and put forth his grievance regarding the fact that he has paid the amount in compliance to the order passed under Section 12 of the D.V. Act, 2005 as modified by the learned Sessions Judge, Jagatsinghpur in Criminal Appeal No.16 of 2020, the Executing Court shall address the same in proper perspective within two weeks of filing of such petition. However till the aforesaid petition is filed by the petitioner within the time stipulated, the N.B.W. issued against him shall not be executed. Needless to say that if it is found that the petitioner is not liable to pay any amount to the opposite party no.2 in the Execution case, the N.B.W. issued against him shall be recalled and the execution proceeding shall be dropped.

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

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

(S. Pujahari)
Judge

MRS