

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 1794 of 2022

Paramananda Rana and others Petitioners
Mr. Smruti Ranjan Rout, Advocate

-Versus-

State of Orissa and another Opposite Parties
Mr. T.K. Praharaj, SC, OP No.1
None for OP No.2

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
10.10.2022

Order No.

01.

1. Heard Mr.S.R. Rout, learned counsel for the petitioners and Mr. T.K. Praharaj, learned Standing Counsel for the State. None appears for opposite party No.2.

2. The instant petition under Section 482 Cr.P.C. is at the behest of the petitioners challenging the impugned order dated 17th May, 2022 passed by the learned J.M.F.C., Salipur in D.V. Case No.52 of 2020 on the grounds stated therein.

3. Learned counsel for the petitioners submits that the order under challenge is not sustainable in law but then learned court below allowed the prayer sought for at the instance of opposite party No.2 which is with regard to demand of accommodation or in the alternative direct petitioner No.1 to pay an amount of Rs.5,000/- per month towards house rent to be borne by her. It is contended that learned court below without any justification allowed the proposed amendment sought for and therefore, the impugned order under Annexure-4 is liable to be set aside.

4. Mr. Praharaj, learned Standing Counsel for the State on the other hand submits that the court below allowed the amendment which is with regard to relief sought for by opposite party No.2 vis-à-vis

separate accommodation or in the alternative, monthly payment of Rs.5,000/- to her to bear the expenses towards payment of rent and therefore, no illegality has been committed as a result and it calls for no interference.

5. The Court perused the proposed amendment which is mentioned in Annexure-3. Since opposite party No.2 claimed of no independent source of income to stay and survive therefore she prayed for separate accommodation or in the alternate, for monthly payment of Rs.5,000/- towards house rent to be incurred by her. Since it is a D.V. proceeding initiated at the behest of opposite party No.2, as the wife of petitioner no.1 and amendment which is sought for is with regard to reliefs prayed for, the Court does not find any error having been committed by the learned court below which calls for interference. It was considering the prayer of opposite party No.2, the claim for separate accommodation or in the alternative monthly payment of Rs.5000/-, learned court below deemed it to be appropriate to allow the proposed amendment which therefore in the opinion of the Court does not suffer from any legality infirmity. The petitioners in any case shall have the liberty to challenge the claim of opposite party No.2 vis-à-vis the relief sought for during and in course of the D.V. proceeding pending before the learned court below. In other words, there is no ground made out by the petitioner to set aside the impugned order under Annexure-4. Accordingly, it is ordered.

6. Consequently, the CRLMC stands dismissed.

7. The petitioner shall have the liberty to raise all such grounds opposing the reliefs before the learned court below in CMC No.52 of 2020 pending in the court of leaner J.M.F.C., Salipur.

8. Issue urgent certified copy as per rules.

(R.K. Pattanaik)
Judge