

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1854 of 2022

Kartikeswar Brahma ***Petitioner***

-versus-

State of Orissa & another ***Opposite Parties***

CORAM: JUSTICE S.PUJAHARI

ORDER

21.07.2022

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 09.06.2022 passed by the learned J.M.F.C., Chandikhole in ICC No.202 of 2021 wherein the learned J.M.F.C has rejected the petition filed under Section 205 Cr.P.C in a proceeding under Section 138 of the N.I Act.
3. Learned counsel for the Petitioner submits that the Petitioner filed a petition under Section 205 Cr.P.C. to dispense with his personal appearance on the ground of old age ailment. 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 Petitioner has not appeared till date and issued N.B.W. 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 three weeks 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**. Till then N.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

