

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**CRLMP No.1379 of 2022**

**Madhab Chandra Nayak** .... **Petitioner**

*Mr. S.K. Dash, Advocate*

*-versus-*

**1. State of Odisha**

**2. Smt. Hemalata**

**Gamango**

**3. Sugyani Priyadarshini**

.... **Opp. Parties**

*Mr. Rajesh Tripathy*

*Addl. Standing Counsel*

**CORAM:**  
**JUSTICE S.K. SAHOO**

**ORDER**  
**20.09.2022**

**Order No.**

01. This matter is taken up through Hybrid arrangement (video conferencing/physical mode).

Heard learned counsel for the petitioner and learned Addl. Standing Counsel for the State.

In this application under Articles 226 and 227 of the Constitution of India, the petitioner Madhab Chandra Nayak has prayed to quash the entire proceeding under section 125 of Cr.P.C. in C.R.P. No.17 of 2021 pending in the court of learned Judge, Family Court, Jeypore.

The opposite parties nos. 2 and 3 have filed the aforesaid C.R.P. wherein it is averred that the opposite party no.2 is the legally married wife of the petitioner

and opposite party no.3 is their unmarried daughter. The prayer has been made for monthly maintenance @ Rs.5000/- (five thousand) to each of the opposite parties nos. 2 and 3 so also Rs.25,000/- (twenty five thousand) each of the opposite parties towards medical aid, education of the opposite party no.3 per annum.

Learned counsel for the petitioner contended that there exists no relationship between the petitioner and the opposite party nos.2 and 3 and therefore, the filing of the maintenance petition was with mala fide intention and both of the opposite parties are not entitled to get any maintenance whatsoever from the petitioner. Learned counsel for the petitioner has filed certain documents in support of his contention.

It is not disputed by the learned counsel for the petitioner that the petitioner has already received notice from the court of Judge, Family Court, Jeypore in the aforesaid proceeding and it is stated that no show cause has yet been filed. Once the show cause is filed to the 125 of Cr.P.C. petition and evidence is adduced by both the sides, the learned Judge, Family Court, Jeypore shall be in a position to adjudicate as to whether the opposite party no.2 is the legally married wife of the petitioner and opposite party no.3 is their daughter or not. A Mini trial is not permissible at this stage when the competent court is in seison over the matter. Therefore, while not inclining to accept the prayer made in this application, it

is observed that in case the petitioner files show cause to the maintenance petition, the learned Judge, Family Court shall adjudicate the matter expeditiously in accordance with law.

With the aforesaid observation, the CRLMP stands disposed of.

**( S.K. Sahoo )**  
**Judge**

