

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1915 of 2022

Nityananda Jena

....

Petitioner

-versus-

State of Odisha & another

....

Opposite Parties

**CORAM:
THE JUSTICE S.PUJAHARI**

ORDER

20.07.2022

**Order
No.**

01.

1. This matter is taken up through virtual mode.
2. Heard learned counsel for the Petitioner.
3. The Petitioner has sought for quashment of the order dated 22.06.2022 passed by the learned Judge, Family Court, Balasore in Cr.P. No.1665 of 2010.
4. It appears that the Petitioner-husband in the aforesaid case did not pay the amount as claimed by the Opposite Party No.2-wife in whose favour the order of maintenance was passed as such he has been taken to custody for realization of the maintenance amount of Rs.23,200/- by the executing court repealing the contention that the Opposite Party No.2-wife is not entitled to get the maintenance inasmuch as the Opposite Party No.2-wife has received the permanent alimony towards the full and final settlement as the same is not a part of the order of the court below.

5. Furthermore, Office has made an objection that this Criminal Misc. Case is not maintainable since the order of the Family Court has been challenged and this “CRLMC” should be “RPFAM”.

6. Be that as it may, since the matter is going to be infructuous inasmuch as the Petitioner-husband has already undergone near about 28 days out of 30 days in the meantime, this Court, without entering into the determination of the liability of the Petitioner-husband is there or not, this Criminal Misc. case is maintainable or not, disposes of this CRLMC giving liberty to the Petitioner-husband to file an application before the learned Judge, Family Court, Balasore to cancel the order of maintenance on the ground stated, if so advised. In that event, the learned Judge, Family Court shall decide the same in its own merit in the manner known to law, not later than three months from the date of appearance of the Opposite Party No.2-wife or the court is satisfied that the notice is returned after sufficiency of service still she failed to respond on the same, whichever is earlier.

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

PKS