

IN THE HIGH COURT OF ORISSA AT CUTTACK

TRPCRL No.71 of 2022

Banita Kumari Tripathy Petitioner

-versus-

Shiba Shankar Shadangi Opposite Party

CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
02.12.2022

Order No

05. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. F.R. Mohapatra, learned counsel for the Petitioner.
3. Since Office note indicates that the Opp. Party refused to accept the notice, notice against the Opp. Party is treated as sufficient.
4. This transfer petition has been filed seeking transfer of Criminal Proceeding No. 79 of 2018 pending in the Court of learned Judge, Family Court, Berhampur to the Court of learned Judge, Family Court, Bhubaneswar.
5. It is contended that the Petitioner initially filed Criminal Proceeding No. 172 of 2016 in the Court of learned Judge, Family Court at Berhampur and the said proceeding was disposed of vide order dtd.17.10.2017 with the following direction:-

“The application filed by the petitioners is allowed on contest, but without costs. The opposite party-husband is directed to pay a monthly maintenance of Rs.7,000/- (Rupees Seven Thousands) in total (i.e. Rs.5,000/- for the petitioner no.1 and Rs.2,000/- for the petitioner no.2 respectively) in favour of the petitioner no. 1 with effect from the date of filing of the application i.e. on 10.08.2016. The opposite party-husband is further

directed to clear up of the arrear maintenance within four months here-in- after. He is also directed to pay the current monthly maintenance within first week of each succeeding month. Failure to carry out the order by the opposite party, the petitioner is at liberty to levy execution through due process of law.”

6. In spite of such order when the Opp. Party did not pay the maintenance as directed, the Petitioner filed Criminal Proceeding No. 79 of 2018 before the learned Judge, Family Court at Berhampur. But it is contended that thereafter the Petitioner left his matrimonial house and started residing with her parents at Bhubaneswar. Accordingly, the Petitioner is unable to prosecute the matter in Criminal Proceeding No. 79 of 2018, which has been filed seeking execution of the order dtd.17.10.2017 passed in Criminal Proceeding No. 172 of 2016.

7. Since the Opp. Party refused to accept the notice and notice against him is treated as sufficient, this Court taking into account the grounds taken in the transfer petition and the decisions governing the field is inclined to allow the prayer. Accordingly, this Court directs learned Judge, Family Court, Berhampur to transfer Criminal Proceeding No. 79 of 2018 along with the records of Criminal Proceeding No. 172 of 2016 to the Court of learned Judge, Family Court Bhubaneswar on receipt of this order forthwith.

8. The transfer petition is disposed of.

(Biraja Prasanna Satapathy)
Judge

Sneha