

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2869 of 2022

- 1. Millan Kumar Tripathy** **Petitioners**
2. Sambhunath Tiadi
3. Smt. Minati Tiadi

Mr. S. Tripathy, Advocate

Versus

- 1. State of Odisha** **Opposite Parties**
2. Smt. Minanayana Dash *Mr. D.K. Mohanty, ASC*

CORAM:

JUSTICE SAVITRI RATHO

ORDER

28.10.2022

Order No.

01.

(Through hybrid mode)

1. This application under Section 482 Cr.P.C. has been filed by the petitioners for quashing order dated 09.08.2022 under Annexure-1 and the entire proceeding under Annexure-2 in D.V. Misc. No. 410 of 2022 pending in the Court of learned S.D.J.M. (P) at Uditnagar, Rourkela on the ground that the opposite party no.2 has initiated CRP No.52 of 2022 under Section 125 Cr.P.C. which is pending before the Court of learned Judge, Family Court, Rourkela for which the D.V. Misc. No.410 of 2022 is not maintainable.

2. Perused the prayer in D.V. Misc. No. 410 of 2022 filed under Section 12 of the Protection of Women from Domestic Violence Act (in short "D.V.Act") which is annexed as Annexure-2 to this CRLMC.

The opp. party no.2 has prayed for the following reliefs:-

"It is therefore prayed that your honour may be pleased to take cognizance of the complaint petition under domestic violence act and further may be pleased to pass following orders in favour of the Petitioner/Aggrieved person and against the Respondent as deem fit/necessary under the fact and circumstances of the case.

- (i) To pass Protection Order U/S. 18 of the Act directing the Respondent not to cause any type of fear or threat to the Petitioner/Aggrieved person and to any family members of her parents situated at Panposh, Rourkela.*
- (ii) To pass resident order U/S. 19 of the Act directing Respondent to allow the Aggrieved person to reside separately for which to pay Rs.10,000/- (Rupees Ten thousand) only per month to the petitioner/ aggrieved person for payment of house rent.*
- (iii) To pass order U/S. 20 of the Act directing to the Respondent No.1 to pay a sum of Rs.30.000/- (Rupees Thirty thousand) only per month to the petitioner/Aggrieved person for monthly maintenance of herself towards their, food, cloths, household expenses, Medical expenses etc.*
- (iv) To pass order U/S. 22 of the Act directing to all the Respondents to pay a sum of Rs.70,00,000/- (Rupees Seventy Lakh) only jointly and severally towards compensation to the Aggrieved person for loss and damage suffered by her due to domestic violence on her.*
- (v) To pass an interim order U/S. 23 of the Act directing to the Respondent No.1 to pay Rs.30,000/- (Rupees Thirty thousand) only per month for immediate relief to the petitioner/ aggrieved person till the final disposal of the case.*

- (vi) *To pass order directing the Respondent No.1 to pay Rs.50,000/- (Rupees Fifty thousand) only towards litigation expenses to the petitioner/ aggrieved person for the cases instituted out of their marriage and domestic relationship.*
- (vii) *And any other relief / reliefs as deem fit and proper may be granted by the Hon'ble Court.*

xxx

xxx

xxx. ”

3. As would be evident from a perusal of the prayers, apart from prayer for payment of maintenance, other reliefs have been sought for in the DV Misc Case. Moreover, in view of the provision of Section 26 of the D.V. Act which is extracted below, I do not find any merit in the contentions of the learned counsel for the petitioner.

26. Relief in other suits and legal proceedings.—(1) *Any relief available under sections 18, 19,20,21 and 22 may also be sought in any legal proceeding, before a civil court, family court or a criminal court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act.*

(2) *Any relief referred to in sub-section (1) may be sought for in addition to and along with any other relief that the aggrieved person may seek in such suit or legal proceeding before a civil or criminal court.*

(3) *In case any relief has been obtained by the aggrieved person in any proceedings other than a proceeding under this Act, she shall be bound to inform the Magistrate of the grant of such relief.*

4. Sec- 26 (1) of the D.V. Act permits the aggrieved person to seek for any relief available under Sections – 18,19,20,21 and 22, in any legal proceeding before a civil court, family court or a criminal

court and Section 26 (2) permits the aggrieved person to seek for any relief referred to in Section – 26 (1) in addition to and along with any other relief that the aggrieved person may seek in such suit or legal proceeding before a civil or criminal court. But Section 26 (3) imposes a duty on the aggrieved person to inform the Magistrate if any relief has been granted.

5. Liberty is therefore granted to the petitioner to bring to the notice of the learned S.D.J.M. (P) at Uditnagar, Rourkela if any order under Section 125 of Cr.P.C. is passed against him in the Court of the learned Judge, Family Court Rourkela so that the same can be taken into account while passing any order in D.V. Misc. No.410 of 2022.

6. The CRLMC is disposed of with the aforesaid observation.

7. Urgent certified copy of this order be granted as per rules.

.....
(Savitri Ratho)
Judge

1
Puspa