

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2892 of 2022

Soumya Ranjan Nayak

....

Petitioner

Mr. Samir Kumar Mishra, Advocate

-Versus-

Lina Padhi and others

....

Opposite Parties

None

CORAM:

MR. JUSTICE R.K. PATTANAIK

ORDER

15.11.2022

Order No.

02.

1. Heard learned counsel for the petitioner.
2. Instant petition under Section 482 Cr.P.C. is filed by the petitioner assailing the impugned orders dated 11th July, 2022 and 21st September, 2022 passed by the learned J.M.F.C., Nimapara in Execution Case No.71 of 2022 issuing D.W. against him and further rejecting the prayer to recall it on the grounds stated therein.
3. Mr. Mishra, learned counsel for the petitioner submits that the petitioner is the husband of opposite party No.1 and despite the latter's marital status disputed, the learned court below passed the order of maintenance and thereafter, directed execution of D.W. against the petitioner. Mr. Mishra, learned counsel for the petitioner further submits that the order of maintenance was passed in favour of the petitioner and then coercive action has been taken by issuing D.W. against the petitioner in Execution Case No.71 of 2022. In fact, according to petitioner, the interim maintenance has been challenged and that apart, an application was moved before the learned J.M.F.C., Nimapara in Execution Case No.71 of 2022 with a request to recall the order of D.W., however, it was rejected by the court below vide the impugned order dated 21st September, 2022. It

is submitted that at least an opportunity should be provided to the petitioner to get the ex-parte order of maintenance set aside and until then the impugned orders dated 11th September, 2022 and 21st September, 2022 should be stayed.

4. Having regard to the above submission and since the petitioner has approached this Court seeking to set aside the order of maintenance under Annexure-1 in CRLMC No.99 of 2022, this Court is of the considered opinion that until a decision is taken therein, the impugned order under Annexure-6 series in Execution Case No.71 of 2022 should be kept in abeyance.

5. Accordingly, it is ordered.

6. Consequently, the CRLMC stands disposed of.

7. As a necessary corollary, this Court directs that till disposal of application in CRLMC No.99 of 2022, the impugned order in Execution Misc. Case No.71 of 2022 under Annexure-6 series shall remain stayed.

8. Urgent certified copy of this order be issued as per rules.

(R.K. Pattanaik)
Judge