

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No. 2997 of 2022

Biswajyoti Jena

....
Mr. P. K. Nigam @ Nag, Advocate

Petitioner

-Versus-

Sanjukta Lima

....
Mr. S.K. Das, Advocate

Opposite Party

CORAM:
MR. JUSTICE R.K. PATTANAİK

ORDER
21.10.2022

Order No.

- 01.
1. Heard learned counsel for the petitioner and learned counsel for the Opposite Party.
 2. The instant petition under Section 482 Cr.P.C. has been filed by the petitioner assailing the order dated 11th October, 2022 passed in CRP No.13/2022 by the learned Judge Family Court, Paralakhemundi, Gajapati on the grounds stated therein.
 3. Learned counsel for the petitioner submits that this court had granted the liberty to the petitioner to raise all such ground including maintainability of the petitioner before the Family Court and accordingly, an application was moved, copy of which is at Annexure-2 but the same was not considered at all and disposed of vide impugned order under Annexure-3. While contending so,

learned counsel for the petitioner refers to the order of this Court dated 20.09.2022 passed in CRLMC No.2472 of 2022.

4. Mr. Das, learned counsel for the opposite party submits that the objection was raised earlier and considered hence no illegality has been committed by the court below.

5. Admittedly, the proceeding for enhancement of maintenance is pending before the Family Court. By order dated 20.09.2022 in CRLMC No.2472 of 2022, this Court allowed the petitioner to raise all such objections before court below.

6. Learned counsel for the petitioner submits that though the application under Annexure-1 was moved before the Family Court but it was not considered at all and on the very same day, it was disposed of by impugned order under Annexure-3 and the learned Family Court proceeded to examine the witnesses and then deferred the cross-examination.

7. Considering the submissions of the learned counsel for the parties, since an application with an objection under Annexure-1 was moved before the Family Court, the same should have been considered and disposed of by providing opportunity to the petitioner as well as the other side. The impugned order as at Annexure-3 suggests that the Court rejected the objection of the petitioner on the ground that such a plea had been entertained and dismissed by its order dated 30.08.2021.

8. Learned Family Court should have freshly considered the objection of the petitioner after inviting response from the opposite party and ought to have passed a detailed order but the same has not been done so in the present case.

9. In view of the above and having regarding to the facts of the case besides considering the submissions of learned counsel for the petitioner as well as the opposite party, the CRLMC stands disposed of with a direction the learned Family Court, Paralakhemundi, Gajapati to consider the objection as per Annexure-1 which is moved by the petitioner and after providing the opportunity to the opposite party, to dispose it of as per and in accordance with law.

Basudev



(R.K. Pattanaik)
Judge