

IN THE COURT OF THE CJ(JD), 2ND COURT-CUM-JMFC, CUTTACK.

Present: Ms. Jaya Ray, LL.M. (J.O. Code- OD- 00887)

Dated this 25<sup>th</sup> day of April 2025

Crl. Misc. Case No. 94/2020

T.R. No. 446/2024

Varsha Priyadarshini, aged about 35 years,

W/o- Anubhav Mohanty,

Of At- Nandi Sahi, Choudhury Bazar, PS- Purighat, Dist- Cuttack.

...Aggrieved person

Versus.

Anubhav Mohanty, aged about 38 years, S/o- Abhay Kumar Mohanty.

Of At- Nandi Sahi, PO- Choudhury Bazar, PS- Purighat, Dist- Cuttack.

...Opposite Party/Respondent



UPON THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005

Counsel for the Petitioner: Ld. Adv. Sri R.K Ratha and Associates

Counsel for the Opp. Party : Ld. Adv. Ms. C. Tripathy and Associates

Date of Conclusion of Argument: 10.04.2025

Date of Pronouncement of Order: 25.04.2025

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### ORDER

This order arises out of the Petition filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as 'the Act' in brief) by the Aggrieved Person through the Protection Officer under the

P.W.D.V. Act claiming reliefs for her under Sections 17, 18, 19, 20, 22 and 23 of the Act.

2. Bereft of unnecessary details, the case of the Aggrieved Person is that: her marriage was solemnized on 08.02.2014 with the Respondent as per Hindu rites and customs. At the time of marriage, the mother of the petitioner fulfilled the demand of OP and his family members as per her financial capacity spending more than Rs. 50,00,000/- including household articles, gold and silver ornaments and silver coin to 2000 barat party. Thereafter, they both lived as husband and wife till December 2019. After their marriage, they both made Odia films but petitioner has not got her remuneration of a single pie for which she has stated that by this way without paying any single pie the OP started torturing her. The remuneration of the said film is about Rs. 20,00,000/-. Then the family members of OP opposed the petitioner not to do any outward activities. Also, the OP started keeping relations with various women in the said film industry and the family of the OP supported him and threatened petitioner not to interfere in the film life of OP. OP started consuming alcohol/liquor in the presence of the petitioner in the bed room with his friends and staff which is within the knowledge of the OP's family and when petitioner opposed the same, he abused her in filthy languages. Furthermore, the

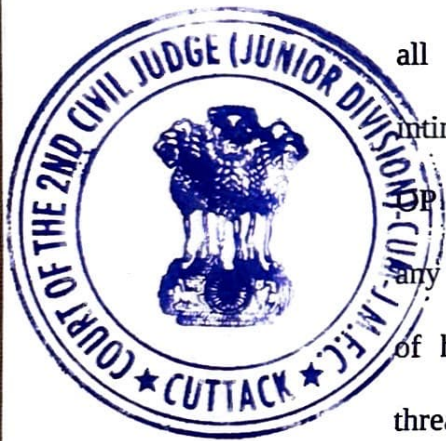


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petitioner wanted to make her family life but OP simply avoided as he was drinking till the end of night.

2(a). In the year 2014, the OP became member of Rajya Sabha and remained at Delhi in the MP quarters. During the period of COVID-19, the petitioner could not join with the family of OP in Delhi due to unavoidable circumstances. On 08.03.2020 it was planned by both the parties to go to Delhi but all of a sudden on the same day early morning, without intimating the petitioner, OP went to Delhi. On dtd. 25.05.2020 OP and his family members returned to their house and without any reason OP became violent and shouted at petitioner in front of his family members. Further, during stay at Delhi, OP threatened petitioner with dire consequences through whatsapp messages and telephone. On dtd. 07.06.2020 at about 10 PM, the OP and his father jointly scolded petitioner in filthy languages. On dtd. 11.06.2020, the OP openly said to the petitioner to give mutual divorce otherwise threatened her for dire consequences. On dtd. 09.11.2020 OP came with some antisocial people to the bedroom of the petitioner without intimating her and taken away TV. The OP did not provide her minimum necessities such as food, water etc. regularly to her. On dtd. 27.10.2020 water pipeline and septic tank work was going on for which the petitioner left the house. On dtd. 18.12.2020 at



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about 10.00 PM when the petitioner came to her in-law's house after attending a social work, OP along with his two assistants locked the bedroom's door in the presence of protection staff and did not open the same after repeated request. Hence, the petitioner lodged FIR in local police. Therefore, she has prayed through the Protection Officer under P.W.D.V. Act under Section 12 of the Act claiming reliefs to pass protection order under Sections 17, 18 of the Act, residence order under Section 19 of the Act, monetary relief under Section 20 of the Act, compensation under Section 22 of the Act, and interim relief under Section 23 of the Act. Therefore, she has prayed through the Protection Officer under P.W.D.V. Act under Section 12 of the Act claiming reliefs to pass protection order under Sections 17, 18 of the Act, residence order under Section 19 of the Act, monetary relief under Section 20 of the Act, compensation under Section 22 of the Act, and interim relief under Section 23 of the Act.



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3. On the contrary, Respondent has filed his show cause to this Petition through his Counsel where he has mentioned that the allegation made in the Form No. I & II supported by affidavit and petition submitted before the District Protection Officer doesn't reveal any act of violence, the proceeding is not maintainable. He has further averred that the



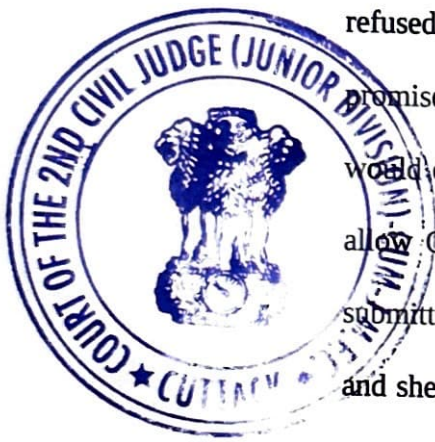
present petition is nothing but a counter blast to the divorce case filed by the OP. The petitioner is herself guilty of inflicting both physical and mental cruelty, torture and harassment upon the OP and his family members. He further submitted that on 27.05.2013, the family members of OP went to petitioner's house to discuss about their marriage and both the families agreed and fixed the dates for the same. The whole arrangement of the marriage was arranged by the OP from his own money. He has stated that petitioner always said to the OP that she fears about the pain while thinking about having sexual intercourse as such she never allowed OP to consummate their marriage. Whenever, the OP tried to have physical touch or make relation with the petitioner, she never allowed the same and this kind of behavior of petitioner made the OP uncomfortable, unhappy. Petitioner did not allow OP to establish physical relationship on their first night after marriage and clearly told OP that she is going to take 3-4 months to get comfortable and would allow him to make physical relations with her and OP appreciated the feelings of petitioner and gave time to petitioner to being comfortable in her matrimonial house.



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3(a) On June, 2014 the OP elected as a Member of Rajya Sabha and started residing at Delhi along with petitioner. The OP again tried to make the petitioner comfortable for

consummating their marriage but she again refused being uncomfortable in making any kind of physical relationship with the OP. OP and petitioner came back to Cuttack and OP was very happy as petitioner has promised him that they would consummate their marriage when they would go back to Cuttack but the petitioner again did not fulfill her promise and clearly refused for having physical relationship with the OP. Petitioner promised OP that on his birthday i.e., on 24<sup>th</sup> December, she would consummate her marriage with OP but petitioner did not allow OP to consummate their marriage. Furthermore, he has submitted that the petitioner mostly stayed at her paternal house and she creates fake situations and starts fighting with OP. On 28/29<sup>th</sup> June 2015, the OP along with the petitioner went to USA and there OP tried to make the petitioner comfortable but petitioner again refused to have physical relationship with him. In the year 2016, the petitioner started making false allegation thereby tagging the name of OP with other co-female actresses and also started abusing him and she always threatened the OP to indulge him and his family in false criminal cases. Furthermore, he has submitted that petitioner always intimidate every family members of the OP that she will complain to police officials after institution of the divorce case by the OP. The present petition filed by the petitioner is not maintainable in eye of law as much



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as the petitioner herself has filed CP No. 312/2020 in the Court of the Judge, Family Court, Cuttack u/s-9 of Hindu Marriage Act 1955 as against the OP for restitution of her conjugal rights. The allegations made by the petitioner in this case as well as in the said CP no. 312/2020 are inconsistent and contradictory to each other. On one hand petitioner in CP No. 312/2020 has stated that she was always residing with the OP as husband and wife and there is no sufficient cause for the OP to withdraw from her company. Further, she has alleged in the said CP NO. 312/2020 that inspite of the fact that OP has illicit relations with many lady artists in film industry, still she tried her level best to bring him in a social line. Moreover, he has submitted that the sole purpose of the petitioner is to grab money and property from OP's family and that she has no respect towards OP and his family members. Therefore, he has prayed to dismiss the Petition filed by the Petitioner by imposing cost.



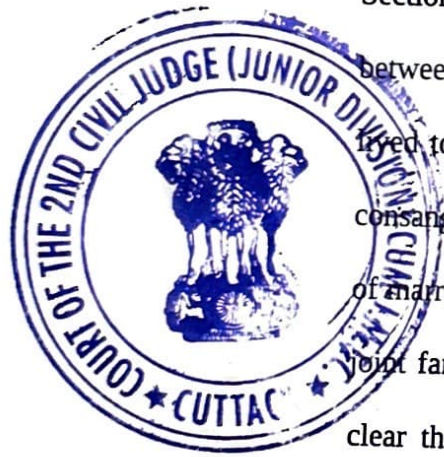
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4. In order to substantiate its case, Aggrieved Person (Varsha Priyadarshini) has preferred to examine herself as PW1 and has adduced documentary evidence which are enclosed vide separate sheet of the judgment. On the contrary, Respondent has not adduced any oral or documentary evidence in favour of his case.

5. After verifying the rival submissions of both the parties, the following points need to be discussed.

a) Whether Aggrieved Person has any 'domestic relationship' with the Respondent?

'Domestic relationship' has been defined under Section 2(f) of the Act which prescribes that: "relationship between two persons who live or have, **at any point of time**, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family". Evidence so adduced by the Aggrieved Person is clear that her marriage was solemnized on 08.02.2014 as per Hindu rituals in presence of both the family members. Here during cross-examination, OP has not disputed these contentions of PW 1 rather he has admitted that his marriage with Petitioner which was solemnized on 08.02.2014 as per Hindu rites and customs and that after marriage, they both maintained their married life. Hence, from the analysis of evidence so made herein before, it is clear that there was '**domestic relationship**' among the parties to this case in view of Section 2(f) of the Act.

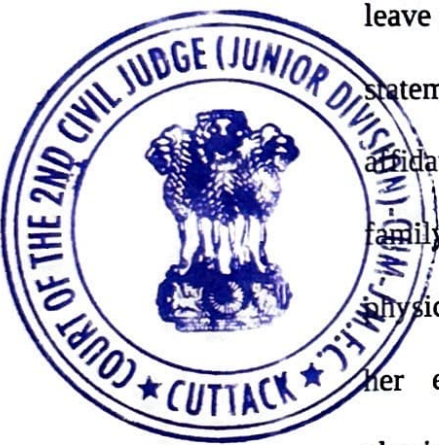


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**b) Whether the Respondent has committed any 'domestic violence' on the Aggrieved Person?**

(i) In this regard, Aggrieved Person has not specified any specific act or any specific incident where she was subjected to any act of domestic violence or torture which forced her to leave the matrimonial home as she has only made a generalize statement of allegations in her main petition as well as evidence affidavit stating therein that "while she was residing with her family, the OP along with his family members have tortured her physically and mentally" and has just reiterated the same thing in her evidence affidavit disclosing that "she is mentally, physically, and emotionally tortured by the family members of the OP" but has not specified any particular incident or period where she was subjected to such torture by the Respondent. Apart from these two generalize contentions made by Aggrieved Person in her evidence affidavit, she has claimed for maintenance of Rs. 50,000/- per month, house rent of Rs. 20,000/- per month, compensation of Rs. 13,00,00,000 /- (thirteen crores) and Rs. 2,00,00,000/- for medical expenses which is more like a Petition than evidence as she has failed to mention the material facts in support of her claim of torture.



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(ii) On perusal of Ext-P1/PW1, Ext-P2/PW1, Ext-P3/PW1, Ext-P5/PW1, Ext-P7/PW1, Ext-P7<sup>1</sup>/PW1, Ext-P7<sup>2</sup>/PW1, Ext-P7<sup>3</sup>/PW1, Ext-P7<sup>4</sup>/PW1, Ext-P7<sup>5</sup>/PW1, Ext-P11/PW1, Ext-P13/PW1 marked by the petitioner, it is seen that all the FIRs are lodged after institution of the present DV case and most of the FIRs are against the assistants of OP. The evidence is the matter of testimony manifesting the fact on a particular precision or circumstances. The FIR is not by itself a substantial piece of evidence and it can be only be used for corroboration

During her cross-examination in para-16, she has stated that she has filed the present case as she felt hurt and bad when she heard that her husband has filed a divorce case. She further does not remember whether she came to know about the divorce case through notice or media. But in para-20 in her cross-examination she has stated that on dtd. 06.07.2020, her husband filed a divorce case in Delhi and she came to know about it through a whatsapp message send by her husband and she has also seen a news report of the same, which shows that both the statements are self contradictory to each other. Further in para-17 of her cross-examination she has stated that she does not remember when she had been to protection officer or whether protection officer came to her nor she remember who



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gave her **Form-I of DIR** which she has filed in Court. In para-18 of her cross-examination she stated that there is no single incident of domestic violence for which she has filed this present case. Then she stated that after 2-3 months of her marriage there was continuous torture and domestic violence and that her husband used to assault her and abused her in obscene languages. But she has not undergone any medical treatment for the assault meted to her by her husband. However, in para-19 she has stated that she cannot say who has signed on the DIR. Also, in the same paragraph she has stated that **clause (IV) of the DIR** shows that domestic violence started against her from 17.01.2020 by her husband, father-in-law and mother-in-law but the torture has started after 2-3 months of her marriage. Again both the contradictory statement shows that, the petitioner is testifying prevaricating statements at various point of time for which her veracity is unclear, misleading and cannot be trusted. Further in para-21 of her cross-examination, she has stated that her marriage was love-cum-arrange marriage but in the same paragraph she has also stated that in her main petition she has mentioned that her marriage was arrange marriage.

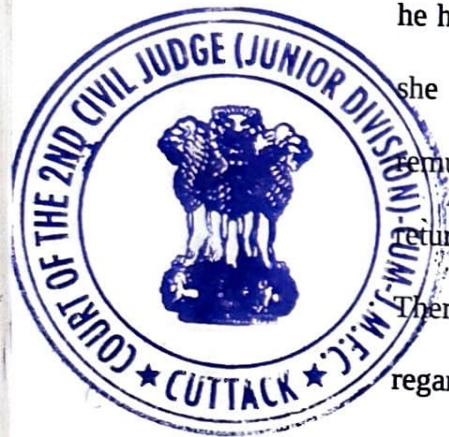
In para-4 of the main petition she has stated that her widow mother has spent around Rs. 50,00,000/- for her marriage but in para-23 of her cross-examination she has stated that she



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could not say the amount of expenditure met by her family during marriage. In addition to this, in para-24 of her cross-examination, she has stated that the first instance of the domestic violence was that her husband did not pay any remuneration to her in the film as her husband after marriage kept the same and he has looking after her account. But she has also admitted that she has not produced any document to prove the amount of remuneration due on her nor she has filed any document of IT returns of the said years to substantiate her allegation. Therefore, the petitioner failed to provide any concrete prove regarding the financial loss or economical abuse occurred by her husband in any manner whatsoever. However, in para-25, 26 and 27 of her cross-examination, it can be seen that the petitioner was working continuously till the year 2021 which shows that the allegation made by the petitioner that the OP and his family members did not allow her to work is false, baseless and frivolous.

So, taking into consideration, it is seen that during cross-examination, the contentions of PW 1 was self contradictory and disputed by the Counsel for Respondent in many occasions.



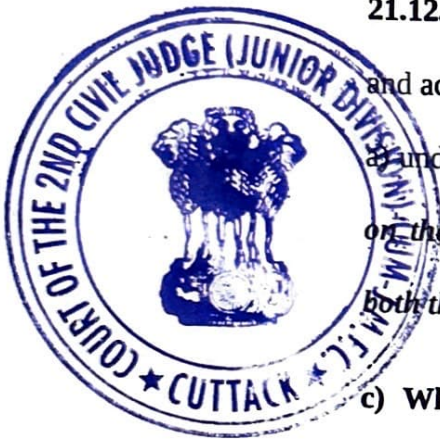


(iv) After analyzing the evidences and materials on record, so adduced by both sides to this case during trial, it is found that Aggrieved Person has not mentioned any situation or particular occasion or act or cause of action from where it can be inferred that she was subjected to 'domestic violence' as she has only made an generalize statement regarding torture and the statements are self contradictory to each other and it shows that the present DV application is an after thought outcome and counter blast which is filed after knowing that her husband has filed divorce case for which she felt hurt and bad as admitted by the petitioner herself in para-16 of her cross-examination. Moreover, the burden of proof in domestic violence cases under the Domestic Violence Act lies on the petitioner to establish the allegations of domestic violence and the evidence presented must be cogent and reliable but here the evidence given by the petitioner is not only insufficient but also inconsistent. However, the Aggrieved Person has failed to justify the reason for filling the present case as she has failed to establish any kind of 'torture' inflicted upon her by the Respondent during her stay at her matrimonial home in order substantiate the allegation of 'domestic violence' in order to attract **Section 2(g)** read with **Section 3** of the Act.



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(v) During subsistence of the domestic violence proceeding the marriage between both the parties is dissolved and the said fact of the dissolution of marriage is admitted by both the parties. Upon going through the verdict passed in MATA 353/2023 by our own Hon'ble High Court on dtd. 21.12.2023 in which Hon'ble High Court has discussed in length and accordingly granted divorce based on cruelty under clause (i) under sub-section (1) in section 13 of the Hindu Marriage Act on the ground that marriage was not consummated between both the parties.



c) Whether Aggrieved Persons are entitled to the reliefs claimed for?

(i) In the present case, the petitioner has claimed monetary relief U/S. 20 of the Act. She has prayed for a monthly expense of Rs. 50,000/- per month for maintenance of herself, Rs. 20,000/- for alternative accommodation, Rs. 13,00,00,000/- for compensation and Rs. 2,00,00,000/- for medical expenses. The petitioner is not only a qualified lady but has been working even at the time of her marriage and thereafter. The documents and the admissions made by the petitioner clearly lead to an irresistible conclusion that she is self employed but here is a case where in addition to be qualified, the petitioner has been working

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as a lead actress in the Ollywood film industry. Further, in view of the above facts and circumstances, this court has relied upon the judgment of **Pushpa vs. Pankaj Ahirwar** passed in **Special Leave to Appeal ( Crl.) No (s). 11447/2024 dated 7.3.2025** wherein the Hon'ble Apex Court denied a wife's claim for maintenance, stating that she was not entitled to it because both she and her husband were employed and financially independent.

The court further emphasized that, since both the spouses were holding the same professional position and the wife can take care of herself independently and also capable of supporting herself there is no need to award maintenance. There is no doubt a difference between "capacity" and "actual earning", but the document on record clearly points out that she also been working. This court relied upon the judgment of **Mamta Jaiswal vs. Rajesh Jaiswal (2000) 3 MO LJ 100** where it observed that *"Section 24 has been enacted for the purpose of providing a monetary assistance to either spouse who is incapable of supporting himself or herself in spite of sincere efforts. However, the law does not expect persons engaged in the legal battles to remain idle solely with the objective of squeezing out money from the Opposite party. Section 24 of HMA is not meant to create an Army of idle people waiting for a dole to be awarded by the other spouse"*. In the said case



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finding that the lady was very well qualified, declined to grant of any maintenance. Also in the case of **Rupali Gupta V. Rajat Gupta (2016) 234 DLT 693**, Division Bench of that "*Court deprecated the claim of maintenance under section 24 of HMA by a well qualified spouse having an earning capacity*".

However, in the present case in hand after verifying the records, assets and liabilities filed by both the parties this court came to a conclusion that, the aggrieved person is self sufficient to maintain herself and as per section 20 of PWDV Act, the aggrieved person failed to prove any losses suffered by her for which she is not entitled to get any kind of monetary relief.



(ii) So, as per the decisions and circumstances of the present case it is proved by the documents relied upon both the parties that the petitioner is having good source of income and as such she is capable for maintaining herself. Also, the Domestic Incident Report submitted by the Protection Officer as well as the contentions made by the Aggrieved Person is not specific about the nature and kind of torture or any specific incident of such act of Respondents rather seems to be stereotype and the nature of allegations so mentioned in the D.I.R. is not the same as contended by the Aggrieved Person in her main petition as well as in her evidence affidavit. Therefore, the second point kept for determination is decided against the Aggrieved Person

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as she has failed to establish 'domestic violence' subjected by the Respondent within the meaning of Section 2(g) read with Section 3 of the Act and the reason for leaving matrimonial home though it remained undisputed that she was having 'domestic relationship' with the Respondent within the meaning of Section 2(f) of the Act and is liable to be dismissed.

Hence, it is ordered:-

**ORDER**

This Crl. Misc. Case is **dismissed** on contest against the GP being devoid any merit. Copy of this order be supplied to the Parties to this case, free of cost under due acknowledgment.



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**CJ(JD), 2ND COURT-CUM-JMFC, CUTTACK.**

This order being transcribed to my dictation and corrected by me, is pronounced in the open Court today on this, the 25<sup>th</sup> day of April 2025 under my hand and seal of this Court.

Sd/-

**CJ(JD), 2ND COURT-CUM-JMFC, CUTTACK.**

**List of witness examined on behalf of the Aggrieved Person**

**P.W. 1**

**Varsha Priyadarshini**

**List of documents admitted in evidence for Aggrieved Person**

Ext. P-1/PW 1	Copy of FIR dtd. 07.09.2020.
Ext. P-2/PW 1	Copy of FIR dtd. 05.12.2020
Ext. P-3/PW 1	Copy of FIR dtd. 19.12.2020
Ext. P-3 <sup>1</sup> /PW 1	Formal FIR dtd. 19.12.2020 (5 sheets)
Ext. P-4/PW 1	Original hand written note by one unknown person.
Ext. P-4 <sup>1</sup> /PW 1	Envelope of the above letter.
Ext. P-5/PW 1	Copy of FIR dtd. 18.12.2023.
Ext. P-6/PW 1	C.C. of police report dtd. 21.12.2020.
Ext. P-7/PW 1	Copy of FIR dtd. 17.03.2021.
Ext. P-7 <sup>1</sup> /PW 1	Copy of FIR dtd. 23.04.2021
Ext. P-7 <sup>2</sup> /PW 1	Copy of FIR dtd. 23.06.2021
Ext. P-7 <sup>3</sup> /PW 1	Copy of FIR dtd. 25.06.2021
Ext. P-7 <sup>4</sup> /PW 1	Copy of FIR dtd. 07.07.2021
Ext. P-7 <sup>5</sup> /PW 1	Copy of FIR dtd. 22.05.2022
Ext. P-7 <sup>6</sup> /PW 1	Formal FIR dtd. 24.05.2022.
Ext. P-8/PW 1	Extract copy of general diary of Purighat PS relating to the above cases (16 sheets).
Ext. P-9/PW 1	Notice u/s-41(a) issued by P.G. cell, New Delhi.
Ext. P-9 <sup>1</sup> /PW 1	Notice u/s-41(a) issued by P.G. cell, New Delhi.
Ext. P-9 <sup>2</sup> /PW 1	Notice u/s-41(a) issued by P.G. cell, New Delhi.
Ext. P-10/PW 1	C.C. of order of the Hon'ble Court of Orissa in CRLMP no. 1518/2022.



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- Ext. P-10<sup>1</sup>/PW 1 C.C. of order of the Hon'ble Court of Orissa in CRLMP no. 1518/2022.
- Ext. P-11/PW 1 Copy of FIR dtd. 11.12.2022.
- Ext. P-12/PW 1 C.C. and connected documents of the court of JMFC-III BBSR in CT case No. 7378/2022 (23 pages).
- Ext. P-13/PW 1 C.C. of FIR dtd. 31.12.2022.
- Ext. P-13<sup>1</sup>/PW 1 C.C. of final form of the said FIR
- Ext. P-14/PW 1 Copy of several social media posts and newspaper articles (8 sheets)

**List of witnesses examined on behalf of the Respondent**

NONE

**List of documents admitted in evidence for the Respondent**

NONE

Sd/-

CJ(JD), 2ND COURT-CUM-JMFC, CUTTACK.



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