

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM No.1 of 2022

Gouri Manjari Barik and others* *Petitioners

Mr.T.P. Tripathy, Advocate

-versus-

Bikash Ranjan Barik* *Opp. Party

**CORAM:
JUSTICE K.R. MOHAPATRA**

**ORDER
07.03.2022**

Order No.

2.
 1. This matter is taken up through Hybrid mode.
 2. Petitioners in this RPFAM seeks to assail the judgment and order dated 22nd December, 2021(Annexure-1) passed by learned Judge, Family Court, Nabarangpur in Cr.P. No.16 of 2020 filed by the Petitioners under 125 Cr.P.C., whereby he directed the Opposite Party to pay a sum of Rs.6,000/- to the Petitioner No.1 and Rs.2,000/- to each of the Petitioner Nos. 2 and 3 from the date of the application, i.e., 16th March, 2020.
 3. Mr. Tripathy, learned counsel for the Petitioners submits that the Opposite Party is working as a Constable in Odisha Police and his gross salary is 44,580/- per month. The maintenance awarded in favour of the Petitioners is grossly insufficient and the same requires enhancement. It is his contention that the Opposite Party is neglecting to maintain his wife and children for which the Petitioners were constrained to file the petition under Section 125 Cr.P.C. Learned Judge, Family Court, Nabarangpur, although discussed the materials on record, but failed to appreciate that the maintenance awarded is not sufficient for the Petitioners to maintain themselves. It is

further contented that while awarding maintenance, the learned Judge, Family Court has not discussed about the dependency of the Petitioners on the Opposite Party.

4. Taking into consideration the submission of learned counsel for the Petitioners, it transpires that the Opposite Party draws gross salary of Rs.44,580/- per month and his net salary is Rs.38,268/-. Relying upon the decision in the case of ***Saheba Khatoon Vs. Gholam Sarwar***, reported in 2002 Cr.LJ 4150 as well as the order passed by Delhi High Court in Criminal Revision Petition No.456 of 2015 (*Babita Bisht Vs. Dharmender Singh Bisht*), learned Judge Family Court, Nabarangpur has passed the impugned order. Assessment of the quantum of maintenance is a guess work made by the concerned Court basing upon the facts and circumstances of each case.

5. Taking into consideration the net income of the Opposite Party and that the Opposite Party is also maintaining his old parents, the learned Judge, Family Court, Nabarangpur has fixed the quantum of maintenance. The Opposite Party has an obligation to maintain his wife and children, but at the same time, he has the responsibility to look after his parents and other household expenses. The Court while assessing the quantum of maintenance has to strike a balance between the two and fix the quantum. Although it is not explained in too many words by the learned Judge, Family Court, but taking into consideration the facts and circumstances of the case, the maintenance awarded in favour of the Petitioners does not appear to be unreasonable.

6. In that view of the matter, this Court is not inclined to interfere with the impugned order. Accordingly, the RPFAM sans merit and stands dismissed.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge



s.s.satapathy