

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM NO. 1 OF 2018

Sarat Chandra Sabat

.... Petitioner

Mr. Manoranjan Acharya, Advocate

-versus-

Namita Kumari Devi and another

.... Opp. Parties

Mr. Soubhagya Kumar Dash,
Advocate

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

12.04.2022

Order No.

5. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this RPFAM seeks to assail the order dated 16th December, 2017 passed in Criminal Proceeding No. 284 of 2016 filed by Opposite Parties under Section 127 Cr.P.C., whereby learned Judge, Family Court, Berhampur directed the Petitioner to pay maintenance at an enhanced rate of Rs.5,000/- per month to each of the Opposite Parties from the date of the order i.e. on 16th December, 2017.
3. Mr. Acharya, learned counsel for the Petitioner submits that the Petitioner is a daily wage earner and considering the same, learned S.D.J.M., Berhampur vide his order dated 30th January, 2006 in Misc. Case No.88 of 2003 had directed the Petitioner to pay Rs.500/- per month as maintenance to each of the Opposite Parties. After ten years, the Opposite Parties in order to extract more money from the Petitioner filed a petition under Section 127 Cr.P.C. claiming enhancement of maintenance of Rs.15,000/- per month to

the Opposite Party No.1 and Rs.10,000/- per month to the Opposite Party No.2. Learned Judge, Family Court, Berhampur without considering the income of the Petitioner and without taking into consideration the remuneration of Opposite Party No.1 as Anganwadi Worker enhanced the amount of monthly maintenance. It is his submission that the evidences led by the parties were not taken into consideration at the time of adjudication of the petition under Section 127 Cr.P.C.. The impugned order is a cryptic and non-speaking one. Hence, the same is liable to be set aside.

4. Mr. Dash, learned counsel for the Opposite Parties, on the other hand, submits that the award of maintenance at the rate of Rs.500/- per month to each of the Opposite Parties was made in the year, 2006. Since there was rise of price of the household articles and there is stiff rise in the cost of living, the Opposite Parties were constrained to file a petition under Section 127 Cr.P.C. Learned Judge, Family Court, Berhampur taking into consideration the facts and circumstances of the case as well as the materials on record directed the Petitioner to pay the enhanced amount of maintenance from the date of the order, although they are entitled to the same from the date of application. Although the Opposite Party No.1 is working as Anganwadi worker and is earning a sum of Rs.4,000/- per month, but the same is not sufficient for the Opposite Parties to maintain themselves. Thus, enhancement of the quantum of maintenance was inevitable. Hence, he submits that the impugned order warrants no interference and the RPFAM being devoid of any merit is liable to be dismissed.

5. Taking into consideration the rival contentions of the parties and the materials on record, this Court finds that although the Petitioner has filed his objection and led evidence in the matter but

did not make any statement with regard to his monthly income. The Opposite Party No.1 has categorically stated in her evidence that the Petitioner is running a Hotel and has a medicine shop in his name. The Petitioner has also landed property. The same was, however, denied by the Petitioner in his cross-examination. In view of the fact that the Petitioner has not disclosed his exact income either in the objection or in his examination, the evidence led by the Opposite Party No.1 in that respect inspires confidence. Thus, this Court is of the view that the Petitioner is an able bodied person and has sufficient means to provide maintenance to the Opposite Parties at an enhanced rate after discharging his liability.

6. Taking into consideration the rise in the price of the household articles as well as cost of living, learned Judge, Family Court, Berhampur has enhanced the quantum of maintenance to Rs.5,000/- per month to each of the Opposite Parties in the year, 2017. Although he has not discussed about the income of the present Petitioner in the impugned order, but the materials available on record disclose that the Petitioner has sufficient means to pay the aforesaid amount to the Opposite Parties.

7. In that view of the matter, I am not inclined to interfere with the impugned order. Accordingly, the RPFAM being devoid of any merit stands dismissed.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge

bks