

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM No.72 of 2013

Bhubanananda Sahoo

..... ***Petitioner***

Mr. P.R.Chhatoi

-versus-

Pramila Sahoo

.... ***Opp. Party***

(in person)

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

24.08.2022

Order No.

7. 1. This matter is taken up through Hybrid mode.
2. order dated 13th August, 2013 (Annexure-1) passed by learned Judge, Family Court, Jajpur in Criminal Proceeding No.80 of 2011 is under challenge in this RPFAM, whereby allowing an application under Section 125 Cr.P.C., the Petitioner has been directed to pay maintenance at the rate of Rs.3,000/- per month to the Opposite Party.
3. Mr. Chhatoi, learned counsel submits that marriage of the Petitioner with the Opposite Party is not disputed. Petitioner is a bhagachasi and his annual income is Rs.17,000/- as would reveal from Ext. 'B' issued by Tahasildar, Bhandaripokhari. He does not have any other source of income. After four months of marriage, the Opposite Party voluntarily left the matrimonial home and is staying apart. She has her tailoring shop and she is also serving in a NGO. Thus, she has sufficient means to maintain herself. These materials aspects though considered by learned Judge, Family Court, Jajpur he failed to appreciate the

same in its true perspective. Income certificate issued by the Tahasildar (Ext. 'B') was not considered properly. The Petitioner is an old man of 73 years and is suffering from various geriatric diseases. The income he has, is insufficient to maintain himself. This material aspect ought to have been considered by learned Family Court while passing the impugned order. Hence, he prays for setting aside the impugned order and to remit the same back to learned Judge, Family Court, Jajpur for consideration afresh.

4. Opposite Party-Pramila Sahoo appeared in person by filing self-attested copy of her voter card, which is taken on record. It is her submission that the Petitioner has landed property and also has a building from which he gets a handsome amount. She is a destitute lady and has no independent source of income. Although it is alleged that the Opposite Party has a tailoring shop but no evidence, either documentary or oral, has been laid by the Petitioner before learned Family Court. Thus, the allegation of the Petitioner has rightly been disbelieved by the learned Family Court. She further submits that income certificate issued under Ext. 'B' does not show the actual income of the Petitioner. In view of the above, she submits that the impugned order should not be interfered with and the RPFAM is liable to be dismissed.

5. Taking into consideration the rival contentions of the parties and on perusal of record, it appears that relationship between the parties is not disputed. Learned Judge, Family Court on consideration of materials on record, disbelieved the allegation of the Petitioner to the effect that the Opposite Party has an income from tailoring shop and is a member of a NGO.

The income certificate issued by Tahasildar, Jajpur was disbelieved on the ground that the same was issued to obtain assistance from the Government. The Petitioner has the special knowledge about his income which he did not disclose before learned Judge, Family Court. As such, learned Judge, Family Court had to make a guess work to determine the amount of maintenance. It appears that learned Judge, Family Court has directed the Petitioner to pay a sum of Rs.3,000/- per month, which in my considered opinion, is neither unjustified nor unreasonable. The Petitioner being the husband has an obligation to maintain his wife.

6. In view of the discussions made above, I am not inclined to interfere with the impugned order. Accordingly, the RPFAM being devoid of any merit stands dismissed.

7. Interim order dated 23rd September, 2013 passed in Misc. Case No.146 of 2013 gets merged with this order.

LCR be sent back to learned Judge, Family Court, Jajpur immediately.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge

s.s.satapathy