

IN THE HIGH COURT OF ORISSA AT CUTTACK
RPFAM NO. 9 OF 2021

Umesh Chandra Mahakuda ***Petitioner***
Mr. Gopinath Mishra, Advocate
-versus-
Sasmita Gouda ***Opp. Parties***
Mr. Braja Kishore Panda,
Advocate

CORAM:
JUSTICE K.R. MOHAPATRA

Order No.

ORDER
28.03.2022

10. 1. This matter is taken up through hybrid mode.
2. Pursuant to the order dated 16th February, 2022 passed in I.A. No. 19 of 2021, the cost of Rs.3,000/- paid in Court is accepted by learned counsel for the Opposite Party. Hence, delay in filing RPFAM is condoned.
3. This RPFAM has been filed assailing the order dated 30th November, 2019 passed by learned Judge, Family Court, Rayagada in Cr.P. No. 29 of 2019/M.C. No. 70 of 2017, whereby he directed the Petitioner to pay a sum of Rs.5,000/- per month as maintenance to the Opposite Party in a petition filed under Section 125 Cr.P.C.
4. Mr. Mishra, learned counsel for the Petitioner assailing the impugned order submits that initially the Opposite Party filed a petition under Section 125 Cr.P.C. before learned S.D.J.M., Rayagada, which was registered as Misc. Case No. 70 of 2017. Subsequently, after establishment of the Family Court, the case was transferred to the Family Court and it was registered as Cr.P. No.29 of 2019. It is his submission that the Petitioner is an unemployed person and is

depending upon his parents for his sustenance. On the other hand, the Opposite Party is an educated lady and is earning a handsome amount from tuition. The Petitioner in his objection to the petition under Section 125 Cr.P.C. refuted the contention of Opposite Party to the effect that he is earning a sum of Rs.20,000/- per month towards his salary from Vedanta Company at Lanjigarh. Although the Opposite Party led evidence in that regard, but she could not substantiate that the Petitioner is working as technician in Vedanta Company at Lanjigarh and is earning a sum of Rs.20,000/- per month towards his salary. Learned Judge, Family Court, Rayagada without considering these material aspects awarded a sum of Rs.5,000/- to be paid by the Petitioner to the Opposite Party towards maintenance. Assailing the same, this RPFAM has been filed.

5. Mr. Panda, learned counsel for the Opposite Party, on the other hand, submits that the Opposite Party does not have any independent source of income. Although the Opposite Party could not produce any document to that effect, but the Petitioner is serving as technician in Vedanta Company at Lanjigarh and is earning a sum of Rs.20,000/- per month towards his salary. Thus, the monthly maintenance of Rs.5,000/- awarded in favour of Opposite Party is just and reasonable, which needs no interference.

6. Taking into consideration the submissions of learned counsel for the Parties, this Court finds that neither the Petitioner nor the Opposite Party has led evidence towards their respective income. However, the relationship between the parties is not disputed. Hence, the Petitioner being the husband has obligation to maintain the Opposite Party. It further appears that the Petitioner has some landed properties (Ext.3). Thus, it can be safely presumed that the Petitioner is not unemployed and has some source of income.

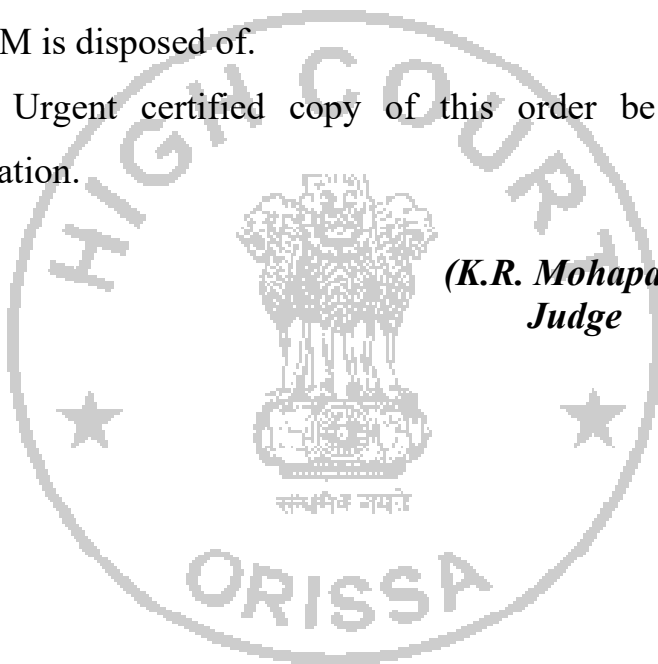
7. In that view of the matter, this Court taking into consideration the fact that parties are residing at a rural area of Rayagada District feels it proper that a sum of Rs.4,000/- (Rupees four thousand only) per month will be just and reasonable towards maintenance of the Opposite Party.

8. Accordingly, the impugned order is modified to the extent that the Petitioner shall pay a sum of Rs.4,000/- (Rupees four thousand only) to the Opposite Party towards maintenance from the date of filing of the application under Section 125 Cr.P.C.

9. With the aforesaid modification of the impugned order, the RPFAM is disposed of.

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

(K.R. Mohapatra)
Judge



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