

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM NO. 23 OF 2018

Ambuja Kumar Behera

.... Petitioner

Mr.Ranjan Kumar Nayak,
Advocate

-versus-

Pravasini Das and another

.... Opp. Parties

Mr. Samir Kumar Mishra, Advocate

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

26.04.2022

Order No.

- 7.
1. This matter is taken up through hybrid mode.
 2. The Petitioner in this RPFAM seeks to assail the ex parte order dated 23rd November, 2017 passed in Criminal Proceeding No. 31 of 2015, whereby learned Judge, Family Court, Bhubaneswar allowing an application filed by Opposite Parties under Section 125 Cr.P.C. directed the Petitioner to pay maintenance of Rs.3,000/- per month to each of the Opposite Parties from the date of application, i.e. on 11th February, 2015, along with arrear maintenance.
 3. Since the Petitioner has remedy under Section 126(2) Cr.P.C. to get the *ex parte* order set aside, I am not inclined to entertain the RPFAM.
 4. Accordingly, the RPFAM is disposed of with an observation that in the event the Petitioner files an application under Section 126(2) Cr.P.C. for setting aside the *ex parte* order of maintenance dated 23rd November, 2017 passed in Criminal Proceeding No. 31

of 2015 along with certified copy of this order within a period of two weeks hence, learned Judge, Family Court, Bhubaneswar shall do well to consider the same in accordance with law giving opportunity of hearing to the parties concerned.

5. Vide order dated 6th February, 2019 passed in Misc. Case No. 26 of 2018, as an interim measure, this Court directed that there shall be interim stay of operation of the impugned order dated 23rd November, 2017 passed by learned Judge, Family Court, Bhubaneswar in Criminal Proceeding No.31 of 2015 subject to the condition that the Petitioner shall pay Rs.50,000/-) to the Opposite Party No.1 within a period of four weeks from the date of the said order and to go on paying Rs.1500/- per month to the Opposite Parties by 7th day of every succeeding month, starting the payment from February, 2019.

6. Although the Opposite Parties have entered appearance in this case, but no application for modification/vacation of the order dated 6th February, 2019 has been filed.

7. In that view of the matter, this Court to protect the interest of Opposite Parties directs the Petitioner to pay a sum of Rs.3000/- (Rupees three thousand only) (Rs.1500/- each to the Opposite Parties) per month till disposal of the petition under Section 126(2) Cr.P.C., if filed within the stipulated period. An endeavour shall also be made for early disposal of the petition under Section 126(2) Cr.P.C., if filed within the stipulated period, as aforesaid.

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

(K.R. Mohapatra)
Judge