

**IN THE HIGH COURT OF ORISSA AT CUTTACK**  
**RPFAM NO.42 OF 2022**

***Bulu @ Sushil Kar @ Kara*** ..... ***Petitioner***

Mr. Amit Prasad Bose, Advocate  
-versus-

***Manjulata Kara @ Kar*** ..... ***Opp. Party***  
Mr. Bichitrnarayan Satpathy,  
Advocate

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

**ORDER**  
**26.10.2022**

**Order No.**

7.        1.        This matter is taken up through hybrid mode.
2.        The Petitioner in this RPFAM seeks to assail the order dated 16<sup>th</sup> February, 2022 (Annexure-1) passed in C.M.C. No. 56 of 2017, whereby learned Judge, Family Court, Bargarh directed the Petitioner to pay a sum of Rs.8,000/- per month as maintenance to the Opposite Party from the date of filing of the application under Section 125 Cr.P.C., i.e. 26<sup>th</sup> May, 2017.
3.        Mr. Bose, learned counsel for the Petitioner submits that the disclosure affidavits filed by the parties clearly reveal that the Petitioner had a gross income of Rs.2,90,260/- for the financial year 2016-17, Rs.3,40,450/- for the financial year 2017-18 and Rs. 4,19,220/- for the financial year 2018-2019. Thus, the allegation of Opposite Party that the Petitioner being a 'C' Class Contractor is earning some handsome amount, is not correct. Although the Petitioner is a 'C' Class Contractor, but the disclosure affidavit clearly discloses his gross income. The

Petitioner has also landed properties but he does not have any income out of those properties. He has some personal expenses and other social obligations. Pursuant to the direction of this Court, the Petitioner is paying Rs.4,000/- per month to the Opposite Party regularly. He, therefore, prays for reconsideration of the quantum of maintenance directed to be paid by the Petitioner to the Opposite Party.

4. Mr. Satapathy, learned counsel for the Opposite Party vehemently objects to the same and submits that the Petitioner has vast landed properties and he has also income of more than Rs.1.00 crore per annum being a 'C' Class Contractor. It is his submission that the Petitioner has Trucks and others vehicles in his name. Learned Judge, Family Court, Bargarh taking into consideration the facts and circumstances of the case as well as materials available on record has passed the impugned order, which warrants no interference.

5. Considering the submissions made by learned counsel for the parties and on perusal of the record, this Court finds that gross income of the Petitioner in an average is near about Rs.4.00 lakh per annum. Although net income of the Petitioner is not clear from the materials on record, but this Court is of the considered opinion that learned Judge, Family Court, Bargarh ought to have taken note of the Income Tax return to find out the net income of the present Petitioner. However, considering the fact that the Petitioner is earning near about Rs.4.00 lakh per annum, this Court finds that maintenance of Rs.6,000/- (Rupees

six thousand) per month to the Opposite Party will be just and proper in the facts and circumstances of the case.

6. Accordingly, the RPFAM is disposed of with the aforesaid modification of the impugned order directing the present Petitioner to pay a sum of Rs.6,000/- (Rupees six thousand) per month to the Opposite Party as maintenance from the date of application filed under Section 125 Cr.P.C., i.e. 26<sup>th</sup> May, 2017. The amount already paid by the Petitioner shall be adjusted from the arrear maintenance accordingly. The impugned order is modified to this extent only.

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

**(K.R. Mohapatra)**  
**Judge**

bks

