

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM No. 68 of 2019

Amarjeet Patnaik

.....

Petitioner

Mr. Alok Kumar Panda, Advocate

-versus-

Priyanka Pattanayak

....

Opp. Party

None

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

14.03.2022

Order No.

- 7.
1. This matter is taken up through Hybrid mode.
 2. None appears for the Opposite Party, although she is represented by learned counsel.
 3. Petitioner in this RPFAM seeks to assail the order dated 2nd August, 2018 passed by learned Judge, Family Court, Dhenkanal in CRP No.52 of 2017 filed by the Opposite Party under Section 125 Cr.P.C., where by learned Judge, Family Court directed the present Petitioner to pay monthly maintenance of Rs.15,000/- to the Opposite Party from the date of filing of the application, i.e., 19th May, 2017.
 4. Mr. Panda, learned counsel for the Petitioner submits that the impugned order was passed on 2nd August, 2018 and unfortunately, on the very next day, i.e., on 3rd August, 2018 the Petitioner, who was working as a contractual employee in Indian Navy, lost his job, as his contract period came to an end. As the Petitioner lost his job he could not pay the arrear maintenance for which the Opposite party filed an Execution Proceeding in Cr.P No.122 of 2018. In the said proceeding,

NBW was issued against the Petitioner. However, the Opposite Party, in the meantime, has re-married on 6th December, 2019 and there is also a marital discord in her second marriage. Without disclosing the same, the Opposite Party proceeded with Cr.P No.122 of 2018. Considering the same, this Court, vide order dated 1st August, 2019 passed an interim order in IA No.329 of 2019 directing interim stay of further proceeding in Cr.P. No.122 of 2018.

4.1 It is the submission of Mr. Panda, learned counsel for the Petitioner that in view of the changed circumstance, the Opposite Party is not entitled to any maintenance and the order impugned herein is not executable. He, however, submits that interest of justice will be best served if the Petitioner files an application under Section 127 Cr.P.C. for alteration of maintenance.

5. In view of the above, this Court, without expressing any opinion on merit of the case of the Petitioner, disposes of the instant revision with a direction that in the event Petitioner files an application under Section 127 Cr.P.C. within a period of four weeks hence along with certified copy of this order, the learned Judge, Family Court, Dhenkanal shall consider the same in accordance with law giving opportunity of hearing to the parties concerned.

6. Till disposal of application under Section 127 Cr.P.C., if filed within the time period stipulated above, further proceeding in Cr.P. No.122 of 2018 shall be kept in abeyance.

s.s.satapathy

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge