

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM No.52 of 2022

Sonali Dash and another* *Petitioner

Mr. Goutam Kumar Acharya, Senior Advocate
being assisted by Mr. B.Das, Advocate

-versus-

Subash Chandra Tripathy* *Opp. Parties

Mr. Prasanna Kumar Mishra, Advocate

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

25.08.2022

Order No.

RPFAM No. 52 of 2022 & RPFAM No. 139 of 2022

4.
 1. This matter is taken up through Hybrid mode.
 2. Both the RPFAMs have been filed assailing order dated 9th March, 2022 passed by learned Judge, Family Court, Cuttack in Criminal Proceeding No.105 of 2020, allowing an application under Section 125 Cr.P.C. ex-parte, the Petitioner (in RPFAM No.139 of 2022) is directed to pay sum of Rs.10,000/- per month to his daughter-Opposite Party No.2 refusing to grant any maintenance to Opposite Party No.1 (therein).
 3. Mr. Mishra, learned counsel for the Petitioner in RPFAM No.139 of 2022 submits that interest of justice will be best served if an application under Section 126(2) Cr.P.C. is filed to set aside the ex-parte impugned order. He, therefore, submits that both the Revisions may be disposed of with a direction that on filing of an application for setting aside the ex-parte impugned order, learned Judge, Family Court, Cuttack

should make an endeavour for early disposal of the same in accordance with law giving opportunity of hearing to the parties concerned.

4. Mr. Acharya, learned Senior Advocate appearing on behalf of Petitioners in RPFAM No.52 of 2022 submits that although the Opposite Party in the petition under Section 125 Cr.P.C. has been directed to pay a sum of Rs.10,000/- per month to his daughter not a single pie has been paid, as yet. He further submits that no maintenance in respect of Petitioner No.1 in RPFAM No.52 of 2022 in the petition under 125 Cr.P.C. was awarded. In order to protect the interest of the parties, a direction should be made to dispose of the application to be filed under proviso to Section 126(2) Cr.P.C. within a stipulated time.

5. Taking into consideration the submissions made by learned counsel for the parties, this Court disposes of both the Revisions with a direction that in the event Subash Chadnra Tripathy, the Opposite Party in Criminal Proceeding No.105 of 2020 files an application proviso to Section 126(2) Cr.P.C. for setting aside the ex-party order impugned in both the Revisions within a period of seven days hence along with certified copy of this order and deposits a sum of Rs.50,000/- (rupees fifty thousand only) before learned Judge, Family Court, Cuttack, it shall consider the same in accordance with law, as expeditiously as possible, preferably within a period of two months therefrom giving opportunity of hearing to the parties concerned.

5.1 It is made clear that in the event the petition under proviso to Section 126(2) Cr.P.C., if any, is filed and rejected, the Petitioners in RPFAM No.52 of 2022 will be at liberty to revive the said Revision.

6. Disbursal of the amount as directed above to be deposited along with an application for setting aside the ex-parte impugned order, shall be subject to further direction of learned Judge, Family Court, Cuttack.

Issue urgent certified copy of the order on proper application.



(K.R. Mohapatra)
Judge