

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No.143 of 2022

Janardan Dehury

.... Petitioner

Mr. N.R.Mohanty
Advocate

-versus-

Lopamudra Pradhan @ Dehury

.... Opposite Party

Mr. R.K.Prusty,
Addl. Standing Counsel

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER
02.12.2022.

Order No.

04.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the Petitioner and learned counsel for the Opposite Party.
3. The Petitioner-husband challenges the order dated 9th March, 2022 passed by learned 2nd Addl. Sessions Judge, Cuttack in Crl. Appeal No.122/2019 in confirming the order dated 9th September, 2019 passed by learned J.M.F.C. (City), Cuttack in D.V. Crl. Misc. Case No.295/2018 whereby a sum of

Rs.10,000/- per month was directed to be paid by the Petitioner-husband to his wife as interim maintenance pending disposal of the original case under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short 'PWDV' Act).

4. The present revision has been filed on the ground that the learned Magistrate took note of several facts beyond pleadings and passed an order which is entirely contrary to the materials on record. It is further submitted that the facts pleaded in the complaint petition are false and baseless and could not have been taken note of by the learned Magistrate to entertain the application for interim maintenance.

5. Per contra, learned counsel appearing for the Opposite Party-wife submits that the Petitioner-husband has paid only a sum of Rs.1,85,000/- till date towards arrear maintenance for which the lady has been subjected to hardship, more so as she has a minor daughter to look after.

6. A perusal of the impugned order passed by the learned Magistrate reveals that after considering the fact that the Petitioner is the husband of the victim lady, held that she is entitled to interim maintenance. In quantifying the amount of maintenance, the learned Magistrate took note of the rival submissions regarding earnings of the husband and decided to award a sum of Rs.10,000/-.

7. In appeal, it was contended that the findings of the Court below are beyond the pleadings of the parties and that the case has been foisted falsely by the wife making certain baseless allegations. It was further contended that the wife is an educated lady quite capable of earning and therefore, no maintenance is required.

8. Learned lower appellate court took note of the fact that the parties had married in 2017 and they shared a common household for some time. Presently, the victim lady is not staying with her husband. As regards the grounds raised by the Petitioner-husband, it was held that the allegation in the complaint and the capability of earning of both parties is a matter to be decided on the basis of evidence adduced by them, but the admitted fact is that the wife along with her child is residing separately from the Petitioner-husband. Further, taking note of the fact that the Petitioner-husband is a Software Engineer in a Multi National Company at Bangalore and earning a sum of Rs.1,00,000/- per month, a fact not specifically denied by him, the lower appellate Court did not find any reason to interfere with the impugned order.

9. This Court has given its anxious consideration to the contentions raised before it and has also perused the orders impugned. There is no dispute that the parties are related as husband and wife. They shared a common household for some time. It is also admitted that presently the wife is residing

separately along with her child. Nothing has been brought on record to show as to if the wife is gainfully employed anywhere. On the contrary, the assertion of the wife that her husband is a Software Engineer working in a Multi National Company has not been specifically denied. Several pleas have been raised by the Petitioner-husband to counter the averments made in the complaint petition. These are matters to be decided and determined only on appreciation of evidence adduced by the parties. In so far as the grant of interim maintenance is concerned, it is the bounden duty of the Petitioner-husband to provide the same to his wife and child pending final disposal of the original application filed under Section 12 of the PWVD Act.

10. After going through the impugned order, this Court finds that the learned lower appellate Court has rightly considered the issues involved and has refused to interfere with the order granting interim maintenance. On an independent appraisal, this Court also finds no reason to interfere more so when no glaring illegality or infirmity has been shown to have committed by the Courts below.

11. Resultantly, the CRLREV is found to be devoid of merit and is dismissed.

12. Since the original proceeding before the learned Magistrate is of the year 2018, the learned Magistrate is directed to make

efforts to expeditiously dispose of the same, preferably within a period of six months.

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

AKB

(Sashikanta Mishra)
Judge

