

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM No. 103 of 2022

Amarjeet Patnaik

.....

Petitioner

Mr. S.Chakravarty, Advocate

-versus-

Priyanka Pattnayak

....

Opp. Party

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

18.07.2022

Order No.

1. This matter is taken up through Hybrid mode.
2. Petitioner in this RPFAM seeks to assail the order dated 26th April, 2022 (Annexure-2) passed in Cr.P. No.36 of 2022 filed under Section 127 (3) Cr.P.C., whereby learned Judge, Family Court, Dhenkanal, modified his earlier order of maintenance granted under Section 125 Cr.P.C. (in Cr.P. No.52 of 2017) and directed that the Opposite Party-wife is not entitled to any maintenance from the date of her re-marriage, i.e., 6th December, 2019, but she is entitled to maintenance for the period from 3rd August, 2018 till 6th December, 2019 @ Rs.10,000/- per month.
3. Mr. Chakravarty, learned counsel for the Petitioner submits that the Petitioner has no grievance against the order refusing maintenance to the Opposite Party-wife from 6th December, 2019, i.e., for the date of her re-marriage, but direction to pay maintenance @ Rs.10,000/- from 3rd August, 2018, i.e., the date of retirement of the Petitioner from service, till 6th December, 2019, is excessive and needs re-

consideration. Learned Judge, Family, Court, Dhenkanal,, while adjudicating the matter, did not take into consideration that after retirement, the Petitioner is neither getting any pension as he was in short-service Commission nor he has been re-employed. Hence, direction to pay maintenance @ Rs.10,000/- per month is highly excessive. He, therefore, prays for setting aside the impugned order and to remit the matter back to learned Judge, Family Court, Dhenkanal for re-consideration of maintenance @ Rs.10,000/- per month.

4. Upon hearing learned counsel for the Petitioner and on perusal of case record, it appears that the Petitioner had earlier approached this Court in RPFAM No.68 of 2019 assailing the order passed by learned Judge, Family Court, Dhenkanal in the proceeding under Section 125 Cr.P.C. (Cr.P No.52 of 2017) directing the present Petitioner to pay maintenance @ Rs.15,000/- per month to the Opposite Party-wife from the date of application. On consideration of submission made by learned counsel for the Petitioner therein to the effect that the Petitioner was in short-service Commission and on the next date of pronouncement of the order, i.e., 2nd August, 2018, the Petitioner retired from service, as he was in short-service Commission no pension is made available to the Petitioner and that the Opposite Party has already re-married. This Court disposed of the said revision (RPFAM No.68 of 2019) vide order dated 14th March, 2022 with the following direction:-

“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 the 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."

In terms of the aforesaid order, learned Judge, Family Court, Dhenkanal considered the application filed by the Petitioner and passed the impugned order.

5. On perusal of the impugned order, it appears that learned Judge, Family Court, Dhenkanal has taken pain to consider the submissions made by learned counsel for respective parties. Taking into consideration that the Petitioner was an army personnel, learned Judge, Family Court has directed to pay maintenance @ Rs.15,000/- per month from the date of application till 2nd August, 2018 when the Petitioner retired from service, i.e., till the date of the order. Since the Petitioner has retired on the very next day of passing of the order in Cr.P. No.52 of 2017, he reduced the maintenance to Rs.10,000/- per month from 3rd August, 2018 till 6th December, 2019, when the Opposite Party re-married.

6. Taking into consideration the status of the Petitioner being a retired army personnel, this Court feels that the maintenance awarded @ Rs.10,000/- per month from 3rd August, 2018 to 6th December, 2019 is not excessive, which would warrant interference. Accordingly, this Court finds no infirmity in the impugned order.

7. In view of the above, the RPFAM merits no consideration and is accordingly dismissed.

(K.R. Mohapatra)
Judge