

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM No.113 OF 2022

Himansu Panda @Sekhar and another* *Petitioners

Mr. S. Devi, Advocate

-versus-

Laxmikanta Panda and another* *Opp. Parties

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

05.08.2022

Order No.

1. This matter is taken up through Hybrid mode.
2. Petitioners in this RPFAM seek to assail the order dated 30th April, 2022 passed by learned Judge, Family Court, Balasore in Criminal Proceeding No.276 of 2016 whereby each of the Petitioners were directed to pay Rs.2,000/- per month to Opposite Party No.1 from the date of application, i.e., 12th July, 2016.
3. Learned counsel for the Petitioners submits that the Opposite Party No.1 is father. Petitioners are born out of wedlock with his 2nd wife and the proforma Opposite Party No.2 is born out of wedlock from his (Opposite Party No.1) 1st wife. Although Opposite Party No.1 has sufficient means to maintain himself, as he is a priest and having landed property, in order to take revenge and harass the Petitioners had filed an application under Section 125 Cr.P.C. It is her submission that Petitioner No.1 is a distributor of Pragati Milk and Petitioner No.2 was working as a labourer in Dubai (presently in India as he has lost his employment). Petitioners are maintaining their mother, who has been driven out by Opposite Party No.1 long since. The Opposite Party No.1 is also not giving any share to the Petitioners in the landed property for which a suit for

partition is pending. All these aspects were not taken into consideration by the learned Judge, Family Court, Balasore while adjudicating the petition under Section 125 Cr.P.C. In that view of the matter, direction for payment of Rs.2,000/- per month by each of the Petitioners to Opposite Party No.1 is illegal and not sustainable in the eyes of law.

4. Taking into consideration the submission of learned counsel for the Petitioner and on perusal of record, it appears that Petitioners have not adduced any evidence with regard to their income. In absence of any material with regard to income of the Petitioners, learned Judge, Family Court had to rely upon the evidence of Opposite Party No.1, who has categorically stated that Opposite Nos. 2 and 3 (Petitioners herein) are earning Rs.15,000/- each per month and Proforma Opposite Party No.2 (herein) is earning Rs.10,000/- per month working in a petrol pump at Bhadrak. There is no rebuttal evidence on record to disbelieve such statement. Although it is stated that Opposite Party No.1 has sufficient means to maintain himself and has landed property but no documentary evidence to that effect was filed before the learned Judge, Family Court. In view of the above, taking into consideration the materials on record, learned Judge, Family Court, Balasore has passed the impugned order, which warrants no interference.

5. Accordingly, the RPFAM is dismissed being devoid of any merit.

(K.R. Mohapatra)
Judge