

IN THE HIGH COURT OF ORISSA AT CUTTACK
RPFAM No. 195 OF 2018

Bipin Bihari Barik ***Petitioner***

Mr. Bibekananda Nayak, Advocate
-versus-

Sanjukta Barik ***Opp. Party***

Mr. Sidhartha Swain, Advocate

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
08.09.2022

Order No.

5. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this RPFAM seeks to assail the order dated 12th December, 2017 passed by learned Judge, Family Court, Jajpur in Criminal Proceeding No.271 of 2015, whereby he allowing an application under Section 125 Cr.P.C. directed the Petitioner to pay a sum of Rs.3,000/- per month to the Opposite Party from the date of application i.e. from 9th December, 2015.
3. Mr. Nayak, learned counsel submits that the Opposite Party is legally married wife of the Petitioner and they were blessed with two daughters. The Petitioner is earning his livelihood by driving passenger Autorickshaw and he has no sufficient means to pay Rs.3,000/- per month to the Opposite Party. He has his own liabilities as the daughters are staying with him and personal expenses. The Opposite Party is working as a member of SHG and has a income from the said source. Hence, the amount of maintenance directed to be paid by the Petitioner requires re-consideration.

4. Mr. Swain, learned counsel for the Opposite Party submits that the Petitioner is thoroughly negligent in maintaining his wife. He further submits that the Petitioner has paid Rs.10,000/- only and thereafter, he did not pay a single pie for the maintenance of the Opposite Party. It is his submission that the Opposite Party is not a member of SHG and she has no independent source of income. Thus, the amount of maintenance directed to be paid should not be interfered with. He, therefore, submits that the RPFAM merits no consideration.

5. Upon hearing learned counsel for the parties and on perusal of the record, it appears that the Petitioner was earning about Rs.15,000/- to Rs.20,000/- per month at the relevant time. The daughters are staying with the Petitioner. Although the Petitioner has raised a plea that the Opposite Party is working as a member of SHG, but in his cross-examination, he has categorically stated that he had no knowledge as to whether the Opposite Party is a member of SHG. It is not disputed that the Petitioner is able bodied person and is earning his livelihood by driving passenger Autorickshaw. Thus, the amount of maintenance directed to be paid by the Petitioner does not appear to be unreasonable.

6. In view of the above, I am not inclined to interfere with the impugned order.

7. Accordingly, the RPFAM stands dismissed.

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

(K.R. Mohapatra)
Judge