

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM No.126 of 2022

Rajendra Kumar Das

.....

Petitioner

Mr. Arun Kumar Das, Advocate

-versus-

Krishna Naik

....

Opp. Party

Mr. Santosh Kumar Dwivedy, Advocate

On behalf of Mr. P.R. Singh, Advocate

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

28.09.2022

Order No.

3. 1. This matter is taken up through hybrid mode.
2. Petitioner in this RPFAM seeks to assail the order dated 5th May, 2022 (Annexure-1) passed by learned Judge, Family Court, Dhenkanal in Cr.P. No.87 of 2019, whereby he is directed to pay maintenance of Rs.6,000/- per month to his wife from the date of application.
3. Mr. Das, learned counsel for the Petitioner submits that the marriage between the parties is not disputed. He is a practicing Lawyer of Dhenkanal district Bar Association. He commenced his practice in the year 2016 and is still continuing as a junior in the office of Sri Omprakash Saran, Senior member of the Bar. He has no definite income. He only depends on his senior to maintain his livelihood. It is also submitted that as he has no sufficient income from practice his father helps him for sustenance. Learned Judge, Family Court,

without considering this material aspect passed the impugned order. Hence, the same requires reconsideration.

4. Mr. Dwivedy, learned counsel appearing on behalf of Mr. Singh, learned counsel for the Opposite Party submits that since the father of the Petitioner was a Police Inspector, the Petitioner has handsome income from bail matters apart from his income from the source of his senior's office. The Petitioner has a residential plot in his name. However, the Opposite Party is not aware about his actual income. In absence of any evidence with regard to income of the Petitioner, learned Judge, Family Court has done guess work and awarded a reasonable maintenance to the Opposite Party-wife. Hence, the same warrants no interference.

5. Considering the submissions made by learned counsel for the parties and on perusal of record, it appears that the Petitioner has not adduced any evidence with regard to his income. He has also stated in his evidence that he is depending on his father to maintain his livelihood. Income of the Petitioner is in his special knowledge and he has to adduce evidence to that effect. Since marriage between the parties is not disputed and the Petitioner is an able bodied person he has legal obligation to maintain his wife, who has no independent source of income. In absence of any evidence with regard to income of the Petitioner, learned Judge, Family Court has done a guess work and accordingly directed him to pay a sum of Rs.6,000/- per month towards maintenance. It also appears that the Petitioner was enrolled as an Advocate in the year 2016. Hence, he has an experience of six years by now as an

Advocate. Thus, taking into consideration the above, I find no infirmity in the impugned order.

6. Accordingly, the RPFAM being devoid of any merit stands dismissed.

7. Interim order dated 1st August, 2022 stands vacated.

Issue urgent certified copy of the order on proper application.



s.s.satapathy