

IN THE HIGH COURT OF ORISSA AT CUTTACK

MATA No. 128 of 2022

Prangya Paramita Garabadu

.....

Appellant

Mr. D. Mohapatra, Advocate

Versus

Sushant Kumar Patra

.....

Respondent

Mr. S.K. Patnaik, Advocate

CORAM:

**JUSTICE S. TALAPATRA
JUSTICE SAVITRI RATHO**

**ORDER
24.11.2022**

Order No.
05.

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. D. Mohapatra, learned counsel appearing for the appellant as well as Mr. S.K. Patnaik, learned counsel appearing for the respondent.
3. By means of this appeal, filed under Section 19 (1) of the Family Courts Act, 1984, the judgment dated 04.04.2022 delivered in Civil Proceeding No. 58 of 2021 by the Judge, Family Court, Rayagada has been challenged.
4. It surfaces from this records that the appellant is employed and earning Rs.14,000/- per month. That apart, a further sum of Rs.3,000/- per month is being paid to the appellant for maintenance of their child. It is evident that no alimony has been settled in favour of the appellant.
5. Mr. Mohapatra, learned counsel has placed the statement of income and liabilities of the appellant, wherefrom we find that appellant being a Police Constable has been earning a take away sum

of Rs. 11,830/- per month whereas the respondent (the husband) is evidently earning a sum of Rs. 24,000/- after all deductions per month.

6. Mr. Mohapatra, learned counsel has stated that without disputing the statement of income and liabilities of the respondent and considering the modest need of the appellant, this Court may pass an order for the permanent alimony. It has been contended further that while passing such order for alimony, this Court shall take into consideration the need of the appellant on account of raising the small child who is in her custody.

7. Appearing for the other side, Mr. S.K. Pattnaik, learned counsel has candidly submitted that the respondent is employed as the Constable in the Excise Department under the rehabilitation scheme. As per requirement of the scheme, he has given an undertaking that he will take care of the dependents of his father for whose death he has been provided the said appointment under the rehabilitation scheme. He has also stated that he has been paying a sum of Rs.3,000/- per month for expenses of his son, as stated. The purpose of alimony or maintenance is to prevent vagrancy and destitution. While determining the quantum of maintenance or alimony, every court has a duty to preserve the status or livelihood of the wife which she had enjoyed in her matrimonial life.

8. In *Chaturbhuj vs Sita Bai:(2008) 2 SCC 316*, the Apex Court has observed that the court is required to exercise that discretion in a just manner. The income of the wife, also, must be put in the scales of justice as against the means of the husband. The object of those provisions for

maintenance or alimony are to prevent vagrancy and destitution. The court has to find out what is required by the wife to maintain an accent standard of living, which is neither luxurious nor penurious, but is modestly consistent with the status of the family. The needs and requirements of the wife for such moderate living can fairly be determined, only if her separate income is taken into account vis-a-vis the earnings of the husband and his financial commitments.

9. Having taken all these aspects, as has been laid in *Chaturbhuj* (supra) into consideration, we are of the view that the respondent shall continue to pay his son a sum of Rs.3,000/- every month and the said amount should be paid by 7th day of every English calendar month by transferring the amount to the account of the appellant at the same time we would like to observe that the amount [on account of maintenance of their son] cannot be adjusted against the claim of the wife. On balancing the liabilities and the income of the husband against the income of the appellant, we are of the view that the respondent shall pay a lump sum amount of Rs.3,00,000/- (Three Lakhs only) as alimony to the appellant. But considering his financial status, we think the respondent deserves a flexible plan of payment. The amount of permanent alimony as quantified shall be paid in two equal instalments. The first installment of Rs.1.50 lakhs shall be paid within a period of three months from today and the last instalment of the equal amount shall be paid within a period of six months from today. In the event of failure of making the payment, the said amount of Rs.3 lakhs [the permanent alimony] will carry interest @ 6% from the date of the decree issued by the Judge, Family Court. For purpose of execution, this decree shall be treated as a money decree.

10. In terms of the above, we do decide the permanent alimony for the wife under Section 25 (1) of the Hindu Marriage Act.

11. In the result, the appeal stands allowed to the extent as indicated above.
12. Draw the decree accordingly.
13. A free copy of this order be supplied to Mr. S.K. Patnaik, learned counsel appearing for the respondent.
14. Urgent certified copy of this order be granted on proper application.

(S. Talapatra)
Judge

(Savitri Ratho)
Judge



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