

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**RPFAM No. 142 of 2022**

***Afsana Bano and another* ..... *Petitioners***

Mr. Anirudha Das, Advocate

***-versus-***

***Shaik Rizwan* .... *Opp. Party***

**CORAM:  
JUSTICE K.R. MOHAPATRA**

**ORDER  
21.09.2022**

**Order No.**

1. This is an application for amendment of the CMP.
2. Petitioner in this RPFAM seeks to assail the order dated 18<sup>th</sup> June, 2022 (Annexure-1) passed in CRP No.34 of 2022, whereby learned Judge, Family Court, Nabarangpur directed the Opposite Party to pay Rs.2,000/- to the Petitioner No.1 and Rs.1,000/- to the Petitioner No.2.
3. Mr. Das, learned counsel for the Petitioner submits that Petitioner No.1 is the legally married wife of the Opposite party and Petitioner No.2 is born out of their wedlock. The Opposite Party has a lucrative business and he has his Gas Agency and other sources of income. He also earns handsome money from the landed property. Although evidence to that effect was laid by Petitioner No.1 in the proceeding under Section 125 Cr.P.C., but the same was not taken into consideration while assessing the amount of maintenance, as a result of which, learned Judge, Family Court committed an error of law as well as fact by directing the Opposite Party to pay a paltry amount of

Rs.2,000/- per month to Petitioner No.1 and Rs.1,000/- per month to Petitioner No.2 from the date of application, i.e., 22<sup>nd</sup> July, 2021. Hence, this RPFAM has been filed.

4. In course of hearing, Mr. Das, learned counsel for the Petitioner read out the evidence of PW-1 (Petitioner No.1), From the evidence, the income of the Opposite Party is not clear. She has made a bald statement that monthly income of the Opposite Party is more than Rs.5.00 lakh per annum, but the same is not supported by any evidence. It also appears that the Opposite Party has not laid any evidence with regard to his income. In the cross-examination, the Opposite Party stated that Petitioners are being maintained by his father. In absence of any evidence with regard to income of the Opposite Party, learned Judge, Family Court had to make a guess work to determine the amount of maintenance. This being a revision under Section 19(4) of the Family Courts Act, 1984, which is in the nature of a petition under Section 401 CPC, I am not inclined to substitute the findings arrived at by learned Family Court in absence of any material to the contrary.

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

**(K.R. Mohapatra)**  
**Judge**