

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM No.204 OF 2017

Purna Chandra Mishra ***Petitioner***

Mr. Bijaya Kumar Parida-2, Advocate

-versus-

Mamata Mishra ***Opp. Party***

Ms. Bishnupriya Panigrahi, Advocate
on behalf of Mr. Raghunath Das Mohapatra, Advocate

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
03.08.2022

Order No.

15. 1. This matter is taken up through Hybrid mode.
2. Petitioner in this RPFAM seeks to assail order dated 5th May, 2017 (Annexure-5) passed by learned Judge, Family Court, Bhubaneswar in Crl. Proceeding No.100 of 2014, whereby Memo dated 18th March, 2017 filed by the Petitioner challenging territorial jurisdiction of the Court was dismissed.
3. Mr. Parida, learned counsel submits that both the Petitioner and Opposite Party are residing at Nayagarh and by the Opposite Party by falsely describing that she is residing at 'opposite side of Gouri Hotel, Lewis Road, Bhubaneswar, PS: Lingaraj in the district of Khordha', has filed the petition under Section 125 Cr.P.C. before learned Judge, Family Court, Bhubaneswar. Thus, the Petitioner filed a Memo to dismiss the Criminal Proceeding on the ground of lack of territorial jurisdiction. But, learned Judge, Family Court dismissed the memo filed by the Petitioner holding that Family Court, Bhubaneswar has jurisdiction to entertain application filed by

Opposite Party under Section 125 Cr.P.C. It is his submission that the Petitioner is also residing at Nayagarh. In order to harass the Petitioner, proceeding under Section 125 Cr.P.C. has been filed before learned Judge Family Court, Bhubaneswar. He, therefore prays for setting aside the impugned order under Annexure-5 and to hold that Criminal Proceeding No.100 of 2014 filed under Section 125 Cr.P.C. to be not maintainable before learned Judge, Family Court, Bhubaneswar due to lack of territorial jurisdiction.

4. Ms. Panigrahi, learned counsel appearing for the Opposite Party submits that the cause title of the petition under Section 125 Cr.P.C. clearly stipulates that the Opposite Party is residing at Bhubaneswar. Hence, the petition under Section 125 Cr.P.C. is maintainable before learned Judge, Family Court, Bhubaneswar. As such, there is no infirmity in the impugned order. Thus, she prays for dismissal of the RPFAM.

5. Section 126 (1) of Cr.P.C. reads as under:-

*“126. **Procedure-** (1) Proceedings u/S 125 may be taken against any person in any district-*

(a) Where he is, or

(b) Where he or his wife resides, or

(c) Where he last resided with his wife, or as the case may be, with the mother of the illegitimate child;”

The above provision makes it clear that a proceeding under Section 125 Cr.P.C. is maintainable where either of the parties is residing. Since the Opposite Party has stated to be residing at Bhubaneswar, Family Court Bhubaneswar has jurisdiction to entertain an application under Section 125 Cr.P.C. No material

is also produced before this Court to come to a conclusion that the Opposite Party is residing at Nayagarh, as alleged.

6. In view of the above, I don't find any infirmity in the impugned order. Accordingly, the RPFAM being devoid of any merit stands dismissed.

(K.R. Mohapatra)
Judge



s.s.satapathy