

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLREV No. 583 of 2017

Mamata Mishra

...

Petitioner

Mr. T.R. Meher, Advocate

-Versus -

Mamata Mishra

....

Opposite Party

Mr. P. Tripathy, AGA

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

24.11.2022

Order No.

03.

1. This matter is taken up through hybrid mode.
2. Heard Mr. T.R. Mehera, learned counsel for the petitioner and Mr. P. Tripathy, learned Additional Counsel for the State.
3. The petitioner being the wife of the Opposite Party-husband filed an application before the learned J.M.F.C., Kantamal being Criminal Misc. Case No. 21 of 2014 under Section-127 of the Cr.P.C. with a prayer to enhance the quantum of maintenance from Rs.500 to 15,000/- per month as ordered earlier in Misc. Case No. 40 of 1991 on 23.07.1993 in a proceeding under Section 125 of the Cr.P.C..
4. Learned J.M.F.C., Kantamal considered the oral and the documentary evidence on record to hold that the Opposite Party-husband is working as Hindi Teacher at Manamunda High School in the district of Boudh and drawing salary of Rs. 31,900/- per month. After deduction, he was drawing a net amount of Rs.20,987/- per month. It is alleged that the Opposite Party-husband married another lady namely Geetanjali Prusty who is a co-teacher in the said High School.
5. Taking into consideration the evidence regarding the income of the Opposite Party-husband, Learned J.M.F.C.

allowed the application by directing the Opposite Party-Husband to pay maintenance of Rs.5000/- to the petitioner from the date of the order i.e., 02.04.2015.

6. Being aggrieved, the Opposite Party-husband approached the Court of Sessions by filing a Revision being C.R.P. No. 02 of 2015(T). Learned Additional Sessions Judge, Boudh by judgment dated 19.07.2017 modified the maintenance amount of Rs.5000/- to Rs.4000/-. The said order is impugned in the present appeal.

7. It is argued by Mr. R.K. Meher, learned counsel for the petitioner-wife that the learned Additional Sessions Judge had no justified reason to reduce the quantum of maintenance and in fact, no reason has been cited in the impugned judgment.

8. Mr. Anirudha Das, learned counsel appearing for the Opposite Party-husband submits that the Opposite Party has in the meantime retired from service and therefore, it would be difficult on his part to pay the amount originally awarded by the learned J.M.F.C.. Learned Additional Sessions Judge, according to Mr. Das, has rightly reduced the amount of maintenance.

9. After considering the rival submissions and perusing the impugned judgment as well as the judgment passed by the learned J.M.F.C., this Court is of the view that the order enhancing the maintenance from Rs.500/- to Rs.5000/- was passed on the basis of oral and documentary evidence being adduced with regard to income of the husband. On the other hand, the impugned order reducing the said amount of maintenance has been passed without citing any reason

whatsoever. It goes without saying that reason is the very soul of a judicial order without which, it order becomes vulnerable to challenge. Strangely, learned Additional Sessions Judge on one hand held that there is no illegality or irregularity found in the order passed by the learned J.M.F.C., Kantamal and yet on the other, she deemed it proper to reduce the amount of maintenance and that too, without citing any reason whatsoever. This is entirely unconscionable in the eye of law, for which, this Court is of the considered view that the impugned judgment cannot be sustained.

10. The Criminal Revision is allowed. The impugned judgment is set aside.

(Sashikanta Mishra)
Judge

Balaram

