

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM NO. 229 OF 2017

Ranjan Kumar Behera

Petitioner

Mr. Rakesh Kumar Mallick,
Advocate

-versus-

Ranjita Behera and another

.... ***Opp. Party***

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

**ORDER
07.07.2022**

Order No.

6. 1. This matter is taken up through hybrid mode.
2. The Petitioner in this RPFAM seeks to assail the order dated 5th August, 2017 passed in Criminal Proceeding No. 77 of 2015, whereby learned Judge, Family Court, Rourkela allowing an application under Section 125 Cr.P.C. filed by Opposite Parties directed the Petitioner to pay a sum of Rs.8,000/- per month to the Opposite Party No.1 and a sum of Rs. 6,000/- per month to the Opposite Party No.2 from the date of application, i.e. from 4th September, 2015.
3. Mr. Mallick, learned counsel for the Petitioner submits that the Opposite Parties are not at all entitled to any maintenance, as directed by learned Judge, Family Court, as the Opposite Party No.1 left the matrimonial home voluntarily without any reason along with Opposite Party No.2. That gets fortified from the order dated 16th August, 2018 passed by learned Judge, Family Court, Rourkela in C.P. No. 29 of 2016, whereby an application under Section 9 of the Hindu Marriage

Act, 1955 (for short 'the Act') was allowed directing the Opposite Party No.1 to join the Petitioner for restitution of conjugal rights. After the said order was passed, the Petitioner has made his best endeavour to resume his marital life with Opposite Party No.1, but in vain. In that view of the matter, the Petitioner was constrained to file an application under Section 13(1) of the Act, which was allowed vide order dated 6th December, 2021 passed by learned Judge, Family Court, Rourkela. All these events happened after the impugned order was passed. Due to pendency of RPFAM, the Petitioner could not move an application earlier for cancellation/variation of the impugned order before the Family Court. He, therefore, submits that interest of justice will be best served, if the Petitioner files an application under Section 127(2) Cr.P.C. and prays for a direction to the learned Judge, Family Court, Rourkela to consider the same in accordance with law.

4. Although the Opposite Parties are represented through their learned counsel, but none appears on their behalf at the time of hearing.

5. In view of the above, this Court disposes of this RPFAM with an observation that in the event the Petitioner files an application under Section 127 (2) Cr.P.C. for cancellation/variation of the order dated 5th August, 2017 passed in Criminal Proceeding No.77 of 2015 within a period a period of two weeks hence along with certified copy of this order, learned Judge, Family Court, Rourkela may consider the

same in accordance with law giving opportunity of hearing to the parties concerned.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge

bks

