

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM No.256 of 2018

Lata Dehury and another ***Petitioners***
Mr. Narayan Prasad Parija, Advocate
-versus-
Ajaya Dehury ***Opp. Party***

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
21.12.2022

Order No.

3. 1. This matter is taken up through Hybrid mode.
2. Petitioner in this RPFAM seeks to assail the order dated 11th July, 2018 (Annexure-4) passed by learned Judge, Family Court, Keonjhar in CrI.P No.55 of 2017, whereby an application filed on behalf of the Petitioner No.1, the minor daughter, for realization of the arrear amount of maintenance as per order dated 1st December, 2015 passed by the said Court in CMC No.99 of 2014, has been rejected.
3. Mr. Parija, learned counsel for the Petitioners submits that pursuant to an application filed by the Petitioners under Section 127 of Cr.P.C. (CMC No.99 of 2014), the amount of maintenance granted under Section 125 Cr.P.C. was enhanced and the Opposite Party was directed to pay Rs.2,400/- per month to the Petitioner No.2 and Rs.1,500/- per month to the Petitioner No.1 from the date of the said order. For non-compliance of order passed in the proceeding under Section 125 Cr.P.C., Petitioners had earlier filed Execution Case in CMC No.518 of 2013 before the learned Judge, Family Court, Keonjhar. After disposal of the petition under Section 127

Cr.P.C. in CMC No.99 of 2014 on 1st December, 2015 aforesaid execution case was disposed of on settlement vide order dated 9th July, 2016 by the following order.

“The case record is put up in the District Level Lok Adalat for final orders.

In this case, the Jdr. O.P. namely Ajay Dehury paid a sum of Rs.52,000/- i.e. permanent alimony to the execution petitioner namely Smt. Kuni Dehury. So, this execution case is disposed of with full satisfaction.

Result be noted in the concerned registers.”

It is the submission of Mr. Parija, learned counsel for the Petitioners that the settlement in CMC No.518 of 2013 was arrived at between the Opposite Party and the Petitioner No.2, but the Petitioner No.1 was not a party to the said settlement. Hence, an application for implementation of the order of maintenance so far as it relates to Petitioner No.1 is concerned was filed in Crl.P. No.55 of 2017, which was dismissed vide order dated 11th July, 2018 under Annexure-4 of the learned Judge, Family Court, Keonjhar. Hence, this RPFAM has been filed.

4. It is his submission that learned Judge, Family Court failed to appreciate the settlement was arrived at between the Petitioner No.2 and the Opposite Party. There was no settlement in respect of Petitioner No.1, the minor daughter. Hence, the Opposite Party is liable to pay arrear maintenance in terms of the order passed in CMC No.99 of 2014.

5. Although the RPFAM was filed on 19th November, 2018, but till date no step has been taken to get the matter listed for issuance of notice. It is at the instance of the Court, the matter is taken up for admission.

6. Considering the submission made by learned counsel for the Petitioners and on perusal of record, it appears that the order passed in the petition under Section 125 Cr.P.C. in Crl. M.C. No.118 of 2009 was put to execution in CMC No.518 of 2013 and after disposal of CMC No.99 of 2014 (Section 127 Cr.P.C.), it was disposed of on settlement between the parties and the Petitioner No.2 received a sum of Rs.52,000/-. As settlement was arrived at between the parties, the Execution Case was disposed of with full satisfaction. Admittedly, the Petitioner No.1 was minor by the time the CMC No.518 of 2013 was disposed of and she was being represented by her mother, the Petitioner No.2. After the Petitioner No.2 received the amount so settled, the execution case was disposed of with full satisfaction. Thus, the contention of Mr. Parija is not acceptable in view of the fact that the mother/Petitioner No.2 was all throughout representing her minor daughter (Petitioner No.1) and has arrived at a settlement on behalf of both. It also appears that the execution case was disposed of with full satisfaction. Thus, a separate petition for realization of the arrear amount in respect of Petitioner No.1/the minor daughter is not maintainable. In view of the above, I find no infirmity in the impugned order.

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

(K.R. Mohapatra)
Judge