

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM NO. 181 OF 2022

Mallareddi Narasimha Kumar Harish* *Petitioner

Mr. Pradyumna Kumar Das, Advocate

-versus-

M. Srivalli

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

Mr. Tukuna Mishra, Advocate

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

08.12.2022

Order No.

2.
 1. This matter is taken up through hybrid mode.
 2. The Petitioner in this RPFAM seeks to assail the order dated 8th July, 2022 passed in CRP Case No. 12 of 2021, whereby learned Judge, Family Court, Rayagada directed him to pay maintenance of Rs.10,000/- per month to the Opposite Party-wife from the date of filing of the application, i.e. 9th April, 2021.
 3. Mr. Das, learned counsel for the Petitioner submits that the take home salary of the Petitioner is only Rs.30,000/- per month as observed by learned Judge, Family Court, Rayagada in the impugned order. Thus, payment of Rs.10,000/- per month as maintenance to the Opposite Party is not justified. He also submits that the Opposite Party is earning a sum of Rs.5,000/- per month and she left the matrimonial home voluntarily as revealed from Ext.1. A petition under Section 9 of the Hindu Marriage Act, 1955 (for short 'the Act') is pending before learned Judge, Family Court, Rayagada for consideration. These material aspects though discussed, but were not given any weightage by learned Judge,

Family Court, Rayagada while passing the impugned order. Hence, the quantum of maintenance requires reconsideration.

4. Mr. Mishra, learned counsel for the Opposite Party submits that Ext. 1 does not reflect that the Opposite Party had left the matrimonial home voluntarily and it only discloses that the Opposite Party left the matrimonial home with her ornaments at her own risk and responsibility leaving engagement ring. He also submits that the same has been taken into consideration by learned Judge, Family Court, Rayagada at paragraph-15 of the impugned order. Learned Judge, Family Court, Rayagada has also taken into consideration the income of Opposite Party while determining the quantum of maintenance. As the Opposite Party is residing at Hyderabad and huge amount of medical expenses is required by her, learned Judge, Family Court, Rayagada taking note of the same has passed the impugned order. He further submits that the Petitioner is paying a sum of Rs.9,000/- per month to the Opposite Party as interim maintenance pursuant to the direction of learned Judge, Family Court, Rayagada. As such, the impugned order warrants no interference.

5. Considering the rival contentions of the parties and on perusal of the record, it appears that at paragraph-15 of the impugned order, learned Judge, Family Court, Rayagada has discussed about the Ext.1 which discloses that the Opposite Party while leaving the matrimonial home had taken with her ornaments at her own risk and responsibility except engagement ring. Learned Judge, Family Court, Rayagada has vividly discussed that the Opposite Party was subjected to torture for which she left the

matrimonial home. Learned counsel for the parties also admit that the Petitioner is paying a sum of Rs.9,000/- per month to the Opposite Party as maintenance pursuant to the interim order passed by learned Judge, Family Court, Rayagada. It also reveals that the gross salary of the Petitioner is Rs.65,000/- per month and his take home salary is Rs.38,752/- per month. Since the Petitioner is paying a sum of Rs.9,000/- per month to the Opposite Party-wife as interim maintenance without any objection, this Court feels that a direction to pay Rs.10,000/- per month towards maintenance under Section 125 Cr.P.C. cannot be said to be excessive or unjustified. Further, pendency of the petition under Section 9 of the Act cannot be a ground to deny maintenance to the Opposite Party-wife under Section 125 Cr.P.C. Admittedly, the Opposite Party is not getting any maintenance in any other proceeding. Hence, this Court is of the considered opinion that the impugned order warrants no interference.

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

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

(K.R. Mohapatra)
Judge

bks