

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM NO. 184 OF 2022

Satyajit Padhi

.... Petitioner

Mr. Soumya Mishra, Advocate

-versus-

Jogamaya Pati

.... Opp. Party

Ms. Sephalee Das, Advocate

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

12.12.2022

Order No.

- 4.
1. This matter is taken up through hybrid mode.
 2. The Petitioner in this RPFAM seeks to assail the order dated 14th July, 2022 passed by learned Judge, Family Court, Keonjhar in Criminal Proceeding No.70 of 2019, whereby the Petitioner has been directed to pay maintenance of Rs.6,000/- per month to the Opposite Party from the date of filing of the application, i.e. 29th March, 2019.
 3. Mr. Mishra, learned counsel for the Petitioner submits that the relationship between the parties is not disputed. An attempt to mediate the dispute between the parties has failed. A proceeding under Section 13(1) of the Hindu Marriage Act, 1955 is pending before learned Judge, Family Court, Keonjhar. He further submits that the Petitioner in his evidence has categorically stated that he is running a Computer Institute and monthly income of the Institute is Rs.14,000/- to Rs.15,000/-. The income of the Petitioner is Rs.6,000/- to Rs.7,000/- per

month. He has a landed property of Ac.0.05 decimals purchased by his father in his name, when he was minor. However, learned Judge, Family Court, Keonjhar assessed the income of the Petitioner at Rs.18,000/- to Rs.20,000/- per month without any basis. Even if the assessment of the income of the Petitioner is presumed to be correct, a direction to pay maintenance of Rs.6,000/- per month to the Opposite Party is excessive and not proportionate to his income. Hence, the quantum of maintenance requires reconsideration.

4. Ms. Das, learned counsel for the Opposite Party submits that the Petitioner apart from running a Computer Institute is also running a School affiliated to CBSE. In spite of direction of learned Judge, Family Court, Keonjhar, not a single pie has been paid to the Opposite Party towards maintenance. The Opposite Party has also filed RPFAM No.229 of 2022 for enhancement of maintenance. She, therefore, submits that the impugned order warrants no interference.

5. Taking into consideration the submissions made by learned counsel for the parties, this Court finds that learned Judge, Family Court, Keonjhar on assessment of the materials on record has categorically held that the income of the Petitioner is Rs.18,000/- to Rs.20,000/- per month. Thus, a direction to pay maintenance of Rs.6,000/- per month to the Opposite Party is not reasonable. Law is well settled in ***Kalyan Dey Chowdhury –v- Rita Dey Chowdhury Nee Nandy***, (2017) 4 SCC 200, that the wife is entitled to maintenance @ 1/4th of the income of husband. Thus, considering the materials on record,

this Court feels that a sum of Rs.5,000/- (Rupees five thousand) per month would be just and proper as maintenance to the Opposite Party.

6. Accordingly, it is directed that the Petitioner shall go on paying a sum of Rs.5,000/- (Rupees five thousand) per month to the Opposite Party as maintenance from the date of filing of the application under Section 125 Cr.P.C.

7. Although it is submitted by Ms. Das, learned counsel that the Opposite Party has filed RPFAM No.229 of 2022 on 21st day of September, 2022 for enhancement of quantum of maintenance, but she had not disclosed about the same at any time previously, when this matter was taken up. It is only disclosed at the time of disposal of this RPFAM. Thus, this Court observes that RPFAM No.229 of 2022 shall be considered on its own merit.

8. With the aforesaid observation and modification in the impugned order, the RPFAM is disposed of.

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

(K.R. Mohapatra)
Judge

bks