

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM No.208 of 2022

Mili Rani Panda

..... ***Petitioner***

Mr. Trilochan Nanda, Advocate

-versus-

Rabinarayan Panda

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

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

14.09.2022

Order No.

1. This matter is taken up through Hybrid mode.
2. Petitioner in this RPFAM seeks to assail the order dated 20th August, 2022 (Annexure-1) passed in CMC No.22 of 2018, whereby learned Judge, Family Court, Balangir dismissed the petition filed by her under Section 125 Cr.P.C.
3. Mr. Nanda, learned counsel for the Petitioner submits that while deciding Issue No.3, learned Judge, Family Court came to a conclusion that Petitioner without any sufficient reason refused to live with her husband. Hence, she is not entitled to maintenance under Section 125(4) CPC. It is his contention that learned Judge, Family Court heavily relied upon para-6 of the deposition of the Petitioner, which reads thus :-

“6. In the month March, 2020 my father made arrangement for my second marriage with a person and that the said fact was objected by the O.P. and that in the said event the O.P. has also made application before the DLSA, Balangir on dtd.17.3.2020 for the purpose of the conciliation and that since I am interest for my second marriage with another person for which I am not interested to join the company and to resume marital relationship of the O.P.”

The said statement should have been taken into consideration along with other materials on record. A stray statement that she

is not interested to join the company of her husband; rather she is interested for second marriage, cannot be the sole ground to refuse maintenance to the Petitioner. Admittedly she is a destitute lady having no independent source of income. Hence, learned Judge, Family Court ought to have taken those materials into consideration for grant of maintenance to the Petitioner. He, therefore prays for setting aside the impugned order and to remit the matter back to learned Judge, Family Court, Balangir for adjudication of petition under Section 125 Cr.P.C..

4. Considering the submission made by learned counsel for the Petitioner and the statement made by the Petitioner in her cross-examination at para-6, it is clear that the reason assigned for not joining the company of her husband is that the Petitioner is interested for second marriage. Thus, this Court is of the considered view that learned Judge, Family Court, Balangir has committed no error in dismissing the petition under Section 125 Cr.P.C., as the ground of refusal of the Petitioner to live with her husband cannot be said to be reasonable and it is squarely covered under Section 125 (4) Cr.P.C.

5. Thus, I am not inclined to entertain the revision vis-à-vis dismissal of petition under Section 125 Cr.P.C., which is proper and justified. However, dismissal of the revision shall not be a bar for the Petitioner to work out her remedy of maintenance in accordance with law.

(K.R. Mohapatra)
Judge