

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM No. 231 OF 2022

Smitamanjari Senapati and another* *Petitioners

Mr. Biswa Ranjan Dalai, Advocate
-versus-

Pramod Kumar Senapati* *Opp. Party

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

**ORDER
18.11.2022**

Order No.

01. 1. This matter is taken up through hybrid mode.
2. The Petitioners in this RPFAM seek to assail the order dated 28th June, 2022 (Annexure-1) passed by learned Judge, Family Court, Cuttack in Criminal Proceeding No.637 of 2010, whereby refusing to grant maintenance in favour of Petitioner No.1 under Section 125 Cr.P.C., maintenance @ Rs.3,500/- per month has been allowed in favour of Petitioner No.2 till she attains her majority.
3. Mr. Dalai, learned counsel for the Petitioners submits that although Petitioner No.1 could not prove the marriage, but Petitioner No.2 is entitled to maintenance till she gets married. In support of his case, he relied upon the ratio decided in the case of *Abhilasha –v- Parkash and others*, reported in 2020 SCC Online SC 736 and submits that Petitioner No.2 is entitled to maintenance till she is unmarried. Hence, he prays for modification of the order of maintenance and to issue direction to pay maintenance to the Petitioner No.2 till she gets majority.
4. Section 125 (1)(b)(c) of Cr.P.C. is reads as under:

“125. Order for maintenance of wives, children and parents.

(1) If any person having sufficient means neglects or refuses to maintain-

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xxx

(b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself.”

5. On a plain reading of the provision, it is apparent that a minor child is entitled to get maintenance under Section 125(1) Cr.P.C.. Clause (c) of Section 125 (1) Cr.P.C. makes it clear that if the child has some mental or physical abnormality or due to any injury, he/she unable to maintain herself, then the child will be entitled to maintenance. In the instant case, no material was produced before learned Judge, Family Court to attract the provision under Section 125 (1)(c) Cr.P.C.

6. In view of the above, this Court finds that learned Judge, Family Court has committed no error in passing the impugned order under Annexure-1.

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

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

(K.R. Mohapatra)
Judge

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