

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1734 of 2021

Sri Biswajit Hota *Petitioner*

-versus-

Smt. Subhashree Panda *Opposite Party*

CRLMC No.2587 of 2021

Subhashree Panda *Petitioner*

-versus-

Biswajit Hota *Opposite Party*

CORAM: JUSTICE S. PUJAHARI

ORDER
28.07.2022

Order
No.

03.

1. Both these matters are taken up through hybrid mode.
2. The Petitioner in CRLMC No.1734 of 2021 happens to be the husband of the Petitioner in CRLMC No.2587 of 2021. As such, hereinafter both are referred as husband and wife respectively.
3. CRLMC No.1734 of 2021 at the instance of the husband and CRLMC No.2587 of 2021 at the instance of the wife having been filed assailing the order dated 13th September, 2021 passed by the learned Sessions Judge, Sambalpur in

Criminal Appeal No.6 of 2021 are heard together and disposed of vide this common order.

4. The wife filed a petition under Section 23 of the Protection of Women from Domestic Violence Act, 2005 (for short, the 'Act'), which was registered as C.M.C. (DV) No.83 of 2019 before the learned S.D.J.M., Sambalpur. In the said proceeding, an interim relief was granted to the wife directing the husband to pay an amount of Rs.15,000/- every month pending adjudication of the case. Against that order, the wife preferred an appeal before the learned Sessions Judge, Sambalpur in Criminal Appeal No.6 of 2021 wherein the learned Sessions Judge, Sambalpur, after hearing both the parties, has enhanced the amount to Rs.50,000/-. The husband being not satisfied with such enhancement of the interim relief and the wife being not satisfied with the quantum of enhancement, though in enhance scale by the learned Sessions Judge, Sambalpur, have challenged such order in the respective Criminal Misc. Cases.

5. I have heard the learned counsel for the husband as well as the learned counsel for the wife in both the Criminal Misc. Cases on the question of sustainability of the order impugned.

6. It appears that after the marriage, the couple went to USA and stayed there. Thereafter, as the dispute arose between them, the wife left her matrimonial home and lived with her parents at Sambalpur. Then she filed the aforesaid case alleging domestic violence. Pending disposal of the same and an amount of Rs.50,000/- has been awarded by the Court of Appeal. The husband admittedly is an I.T. professional and was getting Rs.3.5 lakh per month in U.S.A., but later on he came back to India and is now stated to be earning 1.8 lakh per month and staying at Sambalpur.

7. The learned S.D.J.M., Sambalpur on taking note of the facts and circumstances had awarded Rs.15,000/- to be paid by the husband per month as interim maintenance under Section 23 of the Act to the wife. The wife being aggrieved with the same, preferred an appeal before the learned Sessions Judge, Sambalpur, and the learned Sessions Judge, Sambalpur on

taking into consideration the income as well as the burden of the wife to maintain two children and also the other facts, enhanced the same to be Rs.50,000/-. The husband challenges the same to be unreasonable and without any substance. According to him, the wife being an income tax payee is able to maintain herself, so also she has taken all the property from him including the jewellery. Therefore, the order of the learned S.D.J.M., Sambalpur being not illegal or arbitrary, the learned Sessions Judge, Sambalpur being oblivious of the same, enhanced the interim maintenance to Rs.50,000/- in an arbitrary manner, for which the same is liable to be quashed. While defending the same, the wife has filed a Misc. Case for further enhancement of interim maintenance to Rs.1,00,000/- on the ground that the husband was getting more than Rs.3.5 lakh.

8. During the course of hearing, it is not disputed by the wife that the husband was earlier living in U.S.A. and now he having come down to his native place is staying at Sambalpur. His salary has been drastically reduced to Rs.1.8 lakh. Furthermore, the materials produced before this Court show the income return of the wife to be near about Rs.4 lakh.

9. In the aforesaid factual backdrop of the case, this Court, while rejecting the prayer of the wife for further enhancement, is of the view that the order of the learned Sessions Judge, Sambalpur enhancing the interim maintenance to Rs.50,000/- was not just and proper, particularly when the cost of living standard at Sambalpur is taken into consideration. But, having regard to the fact that the wife is burdened with maintenance of two children, this Court reduces the same to Rs.35,000/- (Rupees thirty five thousand) per month. She is entitled to the same with effect from the date of order of the learned Sessions Judge, Sambalpur. Arrear amount, if any, to be calculated at the rate modified as above, shall be paid by the husband within a month to the wife by an Account Payee Bank Draft positively. However, the interim maintenance ordered shall not impact the final adjudication of the petition under Section 12 of the Act in any manner. It is hoped that the learned S.D.J.M., Sambalpur, shall expedite the proceeding and do well to dispose of the case within four months of receipt of copy of this order addressing, inter-alia, the grievance of the husband that the wife has taken the ornaments and other valuables and also his contention that

for a house purchased at U.S.A. in the name of the wife he has paid the installments of the loan. Both the parties shall render cooperation for early disposal of the case.

10. With the aforesaid order, both the Criminal Misc. Cases stand disposed of.

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

DA/MRS

