

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM No. 295 OF 2019

Benudhar Mallick

.....

Petitioner

Mr. Prasanta Kumar Nanda, Advocate
on behalf of Mr. Amlan Shakti Paul, Advocate

-versus-

Swarnalata Mallick and another

....

Opp. Parties

Mr. R.K.Samantasinghar, Advocate

CORAM:

JUSTICE K.R. MOHAPATRA

ORDER

26.07.2022

Order No.

RPFAM No. 295 OF 2019 & RPFAM No.44 OF 2020

5. 1. This matter is taken up through Hybrid mode.
2. RPFAM No.295 of 2019 has been filed by Benudhar Mallick (hereinafter referred to as 'the husband' for convenience of discussion) for reduction of maintenance amount, whereas RPFAM No.44 of 2020 has been filed by Swarnalata Mallick (hereinafter referred to as 'the wife' for convenience of discussion) along with her son for enhancement of the maintenance amount. Considering the fact that the self-same order is challenged in both the RPFAMs and parties are also same, an analogous hearing is taken up.
3. Both the RPFAMs have been filed challenging judgment dated 23rd October, 2019 passed in Criminal Proceeding No.63 of 2015 (preferred by the wife and her minor son), whereby learned Judge, Family Court, Bhubaneswar directed the

husband to pay Rs.10,000/- per month to the wife and Rs.5,000/- per month to the son.

4. This Court while issuing notice in RPFAM No.295 of 2019, vide order dated 12th December, 2019 directed stay of order dated 23rd October, 2019 passed by learned Judge, Family Court, Bhubaneswar in Criminal Proceeding No.63 of 2015 subject to payment of Rs.13,000/- per month by the husband to the wife and son.

5. Mr. Nanda, learned counsel for the husband submits that learned Judge, Family Court, Bhubaneswar did not at all take into consideration the take-home salary of the husband, which was Rs.8,900/- at the relevant time while he was serving as Assistant Section Officer in the ESI Department of Odisha Secretariat. As such, the direction to pay Rs.15,000/- per month towards maintenance is not in consonance with the income of the husband.

6. Mr. Samantasinghar, learned counsel for the wife though concedes that Rs.13,000/- is being paid regularly. But, on the other hand, he submits that at the time of disposal of the criminal proceeding, i.e., CP No.63 of 2015, the husband was serving as ASO in Odisha Secretariat and he was drawing salary of Rs.44,000/- per month. It is his submission that in the meantime the salary of the husband has been enhanced and now he is drawing Rs.80,000/- per month and hence, the amount of maintenance requires reconsideration.

7. Taking into consideration the rival contentions of the parties and on perusal of record, it appears that the wife had

filed the salary slip of the husband and taking into consideration the same, maintenance amount was determined. It also appears that the husband has neither laid any oral evidence nor filed any document either in support of his salary or otherwise. Thus, taking into consideration the materials available on record and evidence laid by the wife, learned Judge, Family Court, Bhubaneswar has determined the amount of maintenance.

8. In view of the above, I find no infirmity in the impugned order. Accordingly, the RPFAMs are disposed of.

9. Interim order dated 12th December, 2019 passed in IA No.503 of 2019 stands vacated.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Judge

s.s.satapathy