

IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM NO. 132 OF 2020

***Sarita Satapathy @ Tripathy and
another*** ***Petitioners***

Miss Sarita Das, Advocate

-versus-

Ananta Charan Tripathy ***Opp. Party***
Mr. Samir Kumar Mishra,
Advocate

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

ORDER

15.03.2022

Order No.

**RPFAM NO. 132 OF 2020
& RPFAM NO. 95 OF 2020**

6.
 1. This matter is taken up through hybrid mode.
 2. Both the RPFAMs have been filed assailing the common judgment and order dated 27th January, 2020 passed in Criminal Proceeding No. 326 of 2011, whereby learned Judge, Family Court, Jajpur directed the husband, namely, Ananta Charan Tripathy, to pay a maintenance of Rs.2,000/- per month to the wife, namely, Mrs. Sarita Satapathy @ Tripathy and Rs.1,000/- per month to Aliva Tripathy, daughter born out of their wedlock from the date of filing of the application, i.e., 19th November, 2008. It has been further directed to pay a maintenance of Rs.7,000/- and Rs.3,000/- per month to the wife and daughter respectively from the date of the order i.e., 27th January, 2020.
 3. For convenience of the discussion, parties are described as per their status in the Criminal Proceeding No. 326 of 2011.

4. RPFAM No. 95 of 2020 has been filed by the Opposite Party-Ananta Charan Tripathy to set aside the impugned judgment and order and to reduce the quantum of maintenance. RPFAM No.132 of 2020 has been filed by the Petitioners (Mrs. Sarita Satapathy @ Tripathy and Aliva Tripathy) for enhancement of the maintenance amount.

5. Mr. Mishra, learned counsel for the Opposite Party submits that the Opposite Party is appointed under the Rehabilitation Assistance Scheme in place of his father as he became invalid to continue with his job. At the time of appointment, the Opposite Party had given an undertaking to maintain the family. The Opposite Party is working as a Primary School Teacher and is receiving salary of Rs.31,242/- per month after usual deductions. He has his parents as well as two unmarried sisters to maintain. In the meantime, one of the sisters has got married. The Petitioner No.1 is working with a NGO and is getting a salary of Rs.10,000/- per month. Taking into consideration the facts and circumstances of the case, more particularly his obligation to maintain the parents and sisters in one hand and to maintain the wife and minor daughter on the other, the maintenance awarded is in the higher side.

6. Miss Das, learned counsel for the Petitioners submits that learned Judge, Family Court, Jajpur taking into consideration the income of the Opposite Party as well as his obligation to maintain the Petitioners, has awarded meager amount of maintenance. Miss Das, learned counsel relying upon the salary certificate of the Opposite Party annexed to the RPFAM No.132 of 2020 as Annexure-3 submits that the net salary of the Opposite Party is Rs.37,454/- per month. As such, the maintenance awarded in

favour of the Petitioners is at a lower side and the same requires enhancement.

7. Taking into consideration the submissions made by learned counsel for the parties, this Court finds that the Opposite Party was appointed under the Rehabilitation Assistance Scheme. Thus, the Opposite Party has the obligation to maintain his parents as well as dependants of his parents. It is also not disputed by Miss Das, learned counsel for the Petitioners that at the relevant time the take home salary of the Opposite Party was Rs.31,242/- per month. On perusal of the salary certificate of the Opposite Party relied upon by the Petitioners as at Annexure-3 to RPFAM No. 132 of 2020, it appears that the same was issued on 3rd December, 2020 i.e. after the date of disposal of the Criminal Proceeding No.326 of 2011 filed under Section 125 Cr.P.C.

8. Miss Das, learned counsel for the Petitioners, however, submits that although the Opposite Party has taken a plea that the Petitioner No.1 is working with a NGO and is earning a sum of Rs.10,000/- per month, but no document was filed to that effect. It also appears that learned Judge, Family Court, Jajpur while determining the quantum of maintenance took the income as well as occupation of Opposite Party only into consideration. The Opposite Party being the husband and father of Petitioner Nos.1 and 2 respectively is under obligation to maintain them. However, at the same time, he has the obligation to maintain his parents and dependants of his parents, as he was appointed under the Rehabilitation Assistance Scheme in place of his father, who left the job as he was declared invalid. These material aspects were not taken into consideration by the learned Judge, Family Court, Jajpur while awarding the maintenance.

9. In that view of the matter, while not interfering with the amount of maintenance awarded in favour of the Petitioner No.2, namely, Aliva Tripathy, the daughter of the Opposite Party, this Court is of the considered view that a sum of Rs.7,000/- towards monthly maintenance awarded in favour of the Petitioner No.1, namely, Mrs. Sarita Satapathy @ Tripathy, from the date of the order i.e. from 27th January, 2020 is in the higher side and requires reduction. It is, accordingly, directed that the maintenance awarded in favour of Petitioner No.1 be reduced to Rs.5,000/- (Rupees five thousand) per month, which shall be effective from the date of the impugned order, i.e. 27th January, 2020.

10. With the modification of the impugned judgment and order, as aforesaid, the RPFAM No.95 of 2020 is allowed in part and RPFAM No. 132 of 2020 is dismissed.

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

(K.R. Mohapatra)
Judge

bks