**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**RPFAM No.56 of 2026**

***Arun Kumar Swain*** .... ***Petitioner***

Ms. P. Jena, Advocate
on behalf of Mr. A.K. Jena, Advocate

*-versus-*

***Gayatri Mahapatra and another*** .... ***Opp. Parties***

**CORAM:**
**JUSTICE MRUGANKA SEKHAR SAHOO**

**ORDER**
**09.04.2026**
(Hybrid Mode)

**Order No.**

**02.** **1**. On 17.03.2026 after hearing the learned counsel for the petitioner at some length, the following order was passed:

> *"2. The Petitioner-husband in the marriage is before this Court seeking revision of the judgment dated 03.01.2026. The judgment is passed by the learned Judge, Family Court, Puri in CRP Case No.28 of 2024.*
> *3. CRP No.28 of 2024 was filed by the wife in the marriage and the minor girl child aged about 5 years claiming maintenance of Rs.40,000/- per month from the husband in the marriage. Earlier CRP Case No.103 of 2019 was filed by the wife, which was dismissed for default on 4.8.2022.*
> *It was stated before the learned Judge, Family Court in the pleadings before the learned Court that the Opposite Party is a Super Class*

*Contractor. He earns Rs.80,000/- per month by doing the said work. It was further stated that the Petitioner, husbandOpposite Party before the learned Judge, Family Court was earning Rs.20,000/- per month from agricultural income.*

*4. The Opposite Party filed his written statement, stating that C.P No.214 of 2019 was earlier disposed of by judgment dated 28.09.2023. Arguing the revision before this Court, learned counsel for the Petitioner relies on the judgment in the said C.P and submits that wife in her evidence in C.P seeking divorce under Section 13(1) of the Hindu Marriage Act had stated that she does not claim any maintenance or alimony. The said C.P was allowed granting dissolution of marriage solemnized between the parties.*

*5. The finding and the determination of the learned trial court regarding Issue No.(iv) is pertinent for consideration of the present application. The same is reproduced below:*

***"ISSUE NO.(iv)***

> *10. This point deals with the entitlement of the petitioner for getting any maintenance or alimony so also the quantum of such maintenance or alimony on the event of passing of decree of divorce.*
>
> *10-1. As discussed in earlier paragraphs, it has been held that the petitioner is entitled to get a decree of divorce against the respondent on the ground of cruelty. The respondent is under obligation to pay maintenance or alimony to his wife.*
>
> *10-2. Regarding permanent alimony or periodical support in favour of petitioner in absence of material regarding means of the respondent and as it is admitted by the petitioner in her crossexamination that that she shall not claim any periodical maintenance or permanent alimony from*

*the respondent if divorce is allowed in her favour, there is no need to determine such. This point is answered accordingly."*

*6. Perusal of the judgment rendered by the learned Judge, Family Court in the petition under Section 125 Cr.P.C, which was filed for the second time seeking payment of Rs.20,000/- to the wife and Rs.20,000/- to the minor daughter indicates that the present Petitioner apart from examining him had not produced any document or adduced any evidence supporting the contention that he is a daily wager or the contention that his wife is earning to fend for herself and minor child born from the wedlock.*

*7. On being asked, learned counsel for the Petitioner submits that he does not have any instruction whether any amount has been paid after direction of the learned Judge, Family Court, Puri for payment of monthly maintenance. The amount due to be paid as directed by the learned Judge, Family Court, Puri comes to Rs.1,20,000/- from 12.03.2024 till 12.03.2026.*

*8. The issue that falls for consideration by this Court in the present revision application i.e. Whether wife after being divorced without being awarded any permanent alimony or maintenance can claim maintenance under Section 125 Cr.P.C (since repealed and substituted by pari materia provision contained in Section 144 of BNSS, 2023); and Whether the Court can direct payment of alimony if the wife is earning/capable of earning is no more res integra as issues have been authoritatively dealt with and finally settled by the Hon'ble Apex Court in the case of Rajnesh v. Neha: (2021) 2 SCC 324.*

*9. Regarding the issues discussed in detail, learned counsel for the Petitioner has sought an adjournment to address further.*

*10. List for "Fresh Admission" in the week commencing 06.04.2026.*

*11. Learned counsel for the Petitioner shall obtain instruction and the Petitioner shall file affidavit indicating the amount already paid and how he will secure the amount for seeking revision of the judgment rendered by the learned Judge, Family Court, Puri directing payment of maintenance."*

**2.** Today, the matter being in the list is mentioned by the learned counsel for the petitioner and memo of date is filed, which states thus:

> *"That the petitioner does not want to proceed in the above case, hence permitted to withdrawn."*

The memo shall be taken on record. Scanned copy be updated.

**3.** Accordingly, the petition is disposed of.

***(Mruganka Sekhar Sahoo)***
***Judge***

*jyostna*

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Reason: Authentication
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