



IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM NO.63 of 2020

(An application U/S. 19(4) of the Family Courts Act, 1984).

Balaram Tulo ... **Petitioner**

-versus-

Saraswati Tulo & Another ... **Opposite Parties**

For Petitioner : **Mr. B.S. Das, Advocate**

For Opposite Parties : **Mr. B.P. Das, Advocate**

CORAM:

JUSTICE G. SATAPATHY

DATE OF HEARING & JUDGMENT:20.11.2024(ORAL)

G. Satapathy, J.

1. This revision is directed against the impugned judgment dated 18.01.2020 passed in C.R.P. No.11 of 2019 arising out of M.C. No.129 of 2017 under Annexure-4 by which the learned Judge, Family Court, Rayagada has directed the revision-petitioner to pay a sum of Rs.2,500/- each to the opposite parties towards monthly maintenance w.e.f. 13.11.2017.

2. In this case, the relationship between the parties is never disputed and the only question that has been thrown upon to this Court to decide is,



whether the wife has refused to reside with the husband without any sufficient reason as contemplated U/S. 125(4) of the CrPC?.

3. In the course of hearing, Mr. Bhabani Sankar Das, learned counsel for the petitioner very emphatically submits that the evidence on record clearly suggests that the wife has voluntarily deserted the husband without any lawful excuse and thereby, she is not entitled to maintenance. On the contrary, Mr. Biraja Prasanna Das, learned counsel for opposite parties submits that there are enough evidence to indicate that the wife is residing separately from her husband for sufficient cause which can be evidenced from the fact that the husband has never taken any steps to bring back the wife and daughter and in the meanwhile, the daughter is approaching majority, but for not a single day, the husband has visited the house of the petitioner which itself suggests that the wife has refused to reside together with the petitioner-husband for sufficient reason.



4. In this case, the learned trial Court in the impugned judgment has vividly described and analyzed the evidence on record while holding that the OP No.1-wife has justification to reside separately from her husband. It is found from the impugned judgment that the petitioner-husband has alleged against the OP No.1-wife in his show cause/objection that the OP No.1-wife is a quarrelsome and adamant lady which itself is indicative of the fact that the petitioner-husband is casting aspersion on the conduct of the OP No.1-wife which is a ground for the wife to reside separately. Further, it is also not in dispute that the wife and daughter of the petitioner are residing in the parental house of the wife since long from the year 2017, but in the meanwhile, although the petitioner-husband has filed this revision challenging the impugned judgment, but he has not taken any steps to bring back his wife and daughter, which is another ground for the wife to live separately.

5. Moreover, the learned trial Court at paragraph-8 of the impugned judgment has observed



that the wife is not residing in her father's house voluntarily or willfully, but she has been driven out by the family members of the husband, which forced the wife to live in her father's house. It is further recorded by the learned trial Court in the impugned judgment that in fact no real attempt was made by the husband to bring back the petitioners(OPs herein) to his house and thereby, it can be safely held that there are sufficient cause for the wife to live separately from her husband and such living is not voluntary or willful act of the wife. What can be precisely construed as the factors by which a wife would be justified to reside separately from her husband for sufficient reason, cannot be described in a particular way or no straight jacket formula can be prescribed to hold that the wife has reason to reside separately or not, but the Court while dealing with such matter has to gather from the evidence on record as to whether a prudent-wife in a given circumstance would be justified to live separately, has to be considered. In this case, on a careful scrutiny of the impugned judgment, this Court



does not find any error apparent on the face of the impugned judgment to hold that the wife is not justified to live separately from her husband. Accordingly, the plea as advanced by the petitioner-husband is unacceptable and rejected.

6. Now the next question comes for adjudication is the quantum of maintenance, but although the revision-petitioner has not challenged the quantum of maintenance, however, it appears from the impugned judgment that the petitioner-husband is employed as Security Guard in a Public Ltd. Company (NALCO) and he must be drawing salary from that post. Accordingly, the learned trial Court has assessed the gross salary of the petitioner-husband at Rs.13,275/- per month, but in the meanwhile, there must be some revision of pay and the petitioner must be getting more salary than what he was getting in the year 2019, when the monthly salary of the petitioner was assessed by the learned trial Court, who had accordingly, granted a sum of Rs.2,500/- to each of the opposite parties, all total Rs.5,000/- per month as



maintenance to the wife and daughter and, therefore, such finding of the learned trial Court cannot be considered to be unjustified. Accordingly, the quantum of maintenance cannot be interfered with.

7. In the result, the revision petition being devoid of merit stands dismissed. It is made clear that while calculating the arrear maintenance of the wife and daughter, the Court concerned shall take into account the interim maintenance paid by the petitioner-husband to them during the pendency of the revision petition before this Court.

(G. Satapathy)
Judge

*Orissa High Court, Cuttack,
Dated the 20th day of November, 2024/S.Sasmal*