

**IN THE HIGH COURT OF ORISSA AT CUTTACK****RPFAM No.9 of 2024**

(In the matter of application under Section 19 of the Family Courts Act, 1984).

████████████████████ ... ***Petitioner***

-versus-

████████████████████ ... ***Opposite Party***

For Petitioner : ***Mr. S.P. Dash, Advocate***

For Opposite Party : ***Mr. B.K. Mishra, Advocate***

CORAM:

JUSTICE G. SATAPATHY

DATE OF HEARING & JUDGMENT:09.01.2025(ORAL)

G. Satapathy, J.

1. The revision by the Petitioner-husband seeks to challenge the impugned judgment dated 27.09.2023 passed in Cr.P. Case No.154 of 2021 by which the learned Judge Family Court, Baripada has directed the Petitioner to pay a sum of Rs. 3,000/-per month to the Opposite Party-wife towards monthly maintenance w.e.f. 20.12.2021 in an application U/S 125 of the Cr.P.C.



2. Fact in precise are that the Petitioner and the Opposite Party are the husband and wife and their marriage was solemnized on 05.05.2021. However, due to dissension, the wife separated herself and stayed in her parental house. Accordingly, the wife claiming to be unable to maintain herself has filed an application U/S 125 of the Cr.P.C. in the learned trial Court by impleading the husband as Opposite Party therein, which came to be registered as Cr.P. Case No.154 of 2021 and after hearing the learned Counsel for wife, the learned Trial Court issued notice to the Opposite Party-husband, who appeared in the said proceeding and filed his written objection denying all allegations, but inter alia averring that the wife's character is not beyond doubtful and the wife is not entitled to maintenance.

2.1. In the said proceeding, the learned Trial Court, however, allowed both the parties to lead evidence and accordingly the wife examined herself as P.W.1 and her brother as P.W.2, but the husband preferred not to examine anybody for himself. In



addition, the wife also led documentary evidence under Exts.1 to 3, but the husband did not lead any documentary evidence. After closure of evidence, the learned Trial Court after going through the record upon hearing parties passed impugned order directing the husband to pay a sum of Rs.3,000/- per month to the wife as monthly maintenance. Being aggrieved by the said order, the husband has preferred this revision.

3. In course of hearing of the revision petition, Mr. Sarada Prasad Dash, learned Counsel for the petitioner raises two points to challenge the impugned order. First point, the wife without any sufficient cause has left the company of the husband and thereby, she is not entitled to maintenance and secondly, without proof of income, the learned Trial Court has granted higher amount of maintenance to the wife.

3.1. On the contrary, Mr. Bijaya Ku. Mishra, learned Counsel for the Opposite Party-wife, stoutly denies the aforesaid contention by submitting inter alia that the learned Trial Court has not committed any



illegality in passing the impugned order and the quantum of maintenance is quite low and the Opposite Party-wife has enough reason to live separately from her husband. Accordingly, Mr. Mishra prays to dismiss of the revision.

4. After having considered the submissions upon perusal of record, the dispute between the parties boils down to two points; (i) the wife in terms of Section-125(4) of the Cr.P.C. has refused to live with her husband without any sufficient cause and (ii) the quantum of maintenance is excessive. In coming to address the first plea of the husband, it appears that the husband has taken the plea that the wife's character is questionable, but such contention itself is a ground for the wife to live separately from her husband. Moreover, the husband has cross-examined the wife by putting suggestion that she is having some relationship with Motilal Mohanta and, therefore, when her husband raises doubt about her character, she is perfectly justified to refuse to live with her husband which is also evident from the evidence that the wife



left her matrimonial home on 28.08.2021 because of this reason. It is quite natural for a wife to refuse to live with her husband who doubted her chastity, inasmuch as the chastity of a woman is not only dearest to her, but also is a priceless possession in her. Thus, when the character of wife being doubted by her husband without any proof, she has enough reason to live separately from her husband. In this case, without producing any proof about the infidelity of his wife, the husband has simply made character assassination of his wife which itself is a ground for wife to refuse to live with her husband. Hence, the plea of the husband in this case about wife not staying with him without any sufficient cause is liable to be rejected and merits no consideration.

5. On coming to the next point with regard to grant of excess amount to the wife as maintenance, it is quite clear that the wife is entitled to be maintained commensurate to the standard of living of her husband and in this case, the learned Trial Court has granted sum of Rs.3,000/- per month to the wife as a monthly



maintenance. It is however an admitted fact that the husband claims himself to have been working as skilled labourer in a Company at Paradeep and his monthly income was Rs.9,000/- per month. If the monthly income of the husband is Rs.9,000/- per month, he can definitely part with Rs.3,000/- from such income for the maintenance of his wife who is unable to maintain herself and, therefore, the Trial Court has not committed any illegality to grant monthly maintenance of Rs.3,000/- (Rupees Three thousand) to the Opposite Party-wife. Consequently, no ground is made out to interfere with the impugned passed by the learned Judge, Family Court, Baripada in this case.

6. In the result, the revision petition being unmerited stands dismissed, but in the circumstances, there no order as to costs.

(G. Satapathy)
Judge

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*Orissa High Court, Cuttack,
Dated the 9th day of January, 2025/Narayan*