

## IN THE COURT OF JUDGE, FAMILY COURT, BHUBANESWAR.

Present: Shri Pravakar Mishra, OSJS (S.B),  
Judge, Family Court, Bhubaneswar.

C.M.C No. 255 of 2010

Alaka Chhotray, aged about 31 years,  
W/o- Deepak Kumar Chhotray,  
Q.R No. 2 RA-39/3  
Near Gopabandhu Chhak,  
Unit-VII, Bhubaneswar, Dist.- Khurda.

..... Petitioner

Versus

Deepak Kumar Chhotray, aged about 35 years,  
S/o- Brahmananda Chhatoi,  
Sundarpada, P.S.-Airfield,  
Bhubaneswar, Dist-Khurda.

..... Opp. Party

Date of argument : 21.08.2014

Date of order : 04.09.2014

O R D E R

This order relates to a petition dated. 30.03.2012 filed by the petitioner claiming interim maintenance from the Opp. Party-husband. Petitioner has filed the original application under Sec.125 Cr.P.C. claiming maintenance from the Opp. Party and during pendency of the original application, he has filed the present application for appropriate orders.

2. It is the case of the petitioner that she is the legally married wife of the Opp. Party and her marriage with the Opp. Party was solemnised on 14.07.2005 according to Hindu rites and customs. She has stated that after marriage, the Opp. Party tortured her both mentally and physically for non-fulfilment of additional dowry and drove her out from her matrimonial house since 5<sup>th</sup> June, 2010. Since the torture and cruelty became unbearable, it is difficult on the

part of the petitioner to stay with the Opp. Party. and to lead happy conjugal life. The petitioner in her interim application has averred that the Opp. Party is a dance teacher in the Culture University, Bhubaneswar and he has also a coaching centre and is earning more than Rs.35,000/- per month. Apart from that the Opp. Party has got landed property and from the said source, he is earning some amount per month. She has further stated that she has no independent source of income and the Opp. Party having sufficient means is neglecting to maintain her.

3. The Opp. Party has filed written objection on the interim application admitting his marriage with the petitioner. According to him, on the 4<sup>th</sup> night of the marriage, the petitioner disclosed herself before the O.P. that she in fact married to another person prior to this marriage for which, she has not taken any steps for matrimonial relationship with him. He has further stated that the petitioner was not willing to marry him. He has further stated that during his stay with the petitioner, the petitioner subjected him to mental torture and cruelty. He has further averred that when the situation became unbearable, on 05.06.2010 the father of the petitioner came to his house when the petitioner was ready to leave with him and subsequently, without consent of the O.P. and his family members, the petitioner went to her paternal house with her father and since then she did not return. He has further averred that the petitioner without any justifiable cause, with an ulterior motive has lodged an FIR before the Mahila P.S. against the Opp. Party and his family members. The Opp. Party has denied any torture and cruelty towards the petitioner from his side, rather the petitioner without any rhyme or reason deserted him. According to him, he has no source of income, rather, he has stated that the petitioner has got different source of income from different way.

4. From the averments made by the parties, it is an admitted fact that the petitioner is the legally married wife of the petitioner. It is also admitted fact that the petitioner is staying separately from the

Opp. Party since 05.06.2010. The Opp. Party has stated about the illicit relationship of the petitioner with others. Although he has stated that the petitioner has got some independent source of income, he failed to prove the same through any cogent evidence. Therefore, the averments of the Opp. Party that the petitioner has got some independent source of income is unbelievable. The Opp. Party nowhere has stated that he is providing any maintenance to the petitioner for her survival. The report of the conciliator reveals that, conciliation for reunion failed. Law prevents vagrancy and destitution of the neglected wife. No woman will prefer to stay separately from her husband unless the situation demands her. The Opp. Party is duty bound to maintain his wife with utmost care during subsistence of their marriage. From the averments made by the petitioner, it is forthcoming that the Opp. Party has got some income. Therefore, the petitioner is entitled to get interim maintenance from the Opp. Party-husband. Hence, ordered:

O R D E R

The interim-application of the petitioner is allowed on contest. The Opp. Party is directed to pay Rs.3,000/- to the petitioner towards interim maintenance per month from the date of application i.e. 30.03.2012. The Opp. Party is directed to pay the current interim maintenance to the petitioner by 10<sup>th</sup> of each succeeding month and he is further directed to pay the arrear maintenance dues to the petitioner within three months from the date of this order. Any deviation to comply the orders of the court, the petitioner is at liberty to realise the same through process of law.

JUDGE, FAMILY COURT,  
BHUBANESWAR.

Dictated, corrected by me and is pronounced on this the 4<sup>th</sup> day of September, 2014.

JUDGE, FAMILY COURT,  
BHUBANESWAR.