

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

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

Criminal Proceeding No. 135 of 2014

1. Smt. Sarojini Sahoo, aged about 39 years,
W/o-Sri Sridhan Sahoo,
2. Sushanta Kumar Saho, aged about 17 years,
S/o- Sri Sridhan Sahoo,
3. Sukanta Kumar Sahoo, aged about 13 years,
All are presently residing C/o- Susanta Kumar Baral,
Vill.-Ogalapada, P.O.-Janla, P.S-Jatni,
Dist-Khurda.

... Petitioners

... Versus...

Sri Sridhan Sahoo, aged about 58 years,
S/o.- Late Balabhadra Sahoo,
Vill./P.O.-Taraboi, P.S.-Jatni, Dist-Khurda.
At present working as Constable of Police,
Rank No.B-C/545 posted at Kedar Gouri outpost
under Lingaraj Police Station, Bhubaneswar,
Dist-Khurda.

... Opp. Party

Date of Argument : 29.10.2015

Date of Order : 17.11.2015

O R D E R

The petitioner No.1-wife has filed a petition U/s. 127 of the Cr.P.C. against the Opp. Party-husband for self and for petitioner No.2 and 3 for enhancement of their monthly maintenance from Rs. 7,500/- to Rs. 21,500/-.

2. The case of the petitioner No.1 in a nut-shell is that, she and her minor sons, i.e. petitioner No.2 and petitioner No.3 were granted maintenance @ Rs. 2,500/- each vide C.M.C. No. C.R.P. No. 82 of 2011 by this court when Opp. Party was getting salary of Rs. 17,000/- per month. As per the order of this

Court they are getting the above maintenance amount from the Opp. Party but the said amount is not sufficient on their part to maintain their livelihood due to rise in price of essential commodities and study expenses of the children. It is further averred by the petitioner No.1 that in the meanwhile the income of the Opp. Party has increased due to hike in his monthly salary and now he is getting net salary of Rs. 28,161/- per month after all statutory deduction besides, he is getting Rs. 1,00,000/- per annum from his landed property. With these changing circumstances, she claimed revision of their monthly maintenance to Rs. 21,500/- from Rs. 7,500/-.

2. The Opp. Party filed objection stating therein that the he is residing with his old aged mother in his native village and his place of duty is at Bhubaneswar for which he has appointed a caretaker for her, who is taking Rs. 5,000/- per month. It is admitted by him that his net salary of Rs. 28,161/- after all statutory deductions. But his monthly expenditure is Rs. 44,420/- per month for which he incurred loans from his friends and near and dear relations around of Rs. 70,500/- and therefore, the petitioners are not entitled to get any maintenance at the enhanced rate.

4. The only point to be considered is whether there is change of circumstance after previous maintenance was allowed to the petitioners so that the previous maintenance amount can be enhanced?

5. The petitioner in order to prove her case she, herself, has been examined as P.W. 1 and relied on nine documents. They are:- Ext. 1 is the pay slip obtained under R.T.I. Act, Ext. 2 is the xerox copy of the order of the Hon'ble High Court, Ext. 3 is the xerox copy of the lease deed, Ext. 4 is the certified xerox copy of the show cause notice in Crl. Misc. Case No. 144 of 2009, Ext. 5 is the xerox copy of the ROR stands recorded in the name of the father of the Opp. Party, Ext. 6 is the agreement executed by the Opp. Party wherein he has admitted that he has got three acres of land in his share (with objection), Ext. 7 is the xerox copy of the certificate issued by the headmaster showing the date of birth of Susanta Kumar Sahoo and Ext. 7/a is the certified issued by the headmaster showing the date of birth of Sukanta Kumar Sahoo, Ext. 8 is

the xerox copy of the LIC showing withdrawal of the LIC premium for petitioner No.2, Ext. 8/a is the LIC premium of petitioner No.3 and Ext. 9 is the E.C. In order to negate the claim of the petitioners, the Opp. Party himself, has been examined as O.P.W. 1 and relied on two documents. They are:- Ext. A is the LIC payment receipt of Sukanta Kumar Sahoo and Ext. B is the tuition fees of Sukanta Kumar Sahoo.

6. The petitioners were granted maintenance of Rs. 7,500/- vide C.M.C. No. C.R.P. No. 82 of 2011 by this court when Opp. Party was getting salary of Rs. 17,000/- per month. Now the net salary has been hiked to Rs. 37,312/- and he is recipient of net salary of Rs. 28,161/-. It is bone out from the record that the elder son, petitioner No.2 is now residing with the Opp. Party and is continuing his Engineering study in Spintronic Technology and Advanced Research. Since the Opp. Party has been maintaining petitioner No.2, the petitioner No.1 is not entitled to claim any maintenance for petitioner No.2. Be that as it may, there is no cavil of doubt that the pay of the Opp. Party has been increased. The prices of essential commodities have also increased. In these changing circumstances, the monthly maintenance requires to be enhanced. Accordingly, this point is also answered in favour of the petitioners.

7. Now the next question for consideration is what would be the quantum of maintenance? Considering the income of the Opp. Party and price rise of essential commodities, I feel it just and proper to direct the Opp. Party to pay Rs.4,000/- to petitioner No.1 and Rs. 4,000/- to petitioner No.3. Hence, it is ordered;

ORDER

The petition of the petitioners is allowed on contest in favour of the petitioners. The Opp. Party is directed to pay Rs. 4,000/- per month to the petitioner No.1 and Rs.4,000/-to the petitioner No.3 from the date of filing of this application i.e. from 20.10.2014 by adjusting the payment if any made by him in the interregnum. He is further directed to pay the arrear maintenance dues within two months to the petitioners. The current maintenance amount shall be paid within the first week of each succeeding month. Any deviation in

payment of maintenance dues, the petitioners are at liberty to realize the same through process of law.

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Dictated, corrected by me and is pronounced on this the 17th day of November, 2015.

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Witnesses examined for the petitioner:

P.W.1 Smt. Sarojini Sahoo

Witnesses examined for the Opp. Party:

O.P.W.1 Sri Sridhar Sahoo

List of documents by petitioner:

- Ext. 1 Pay slip obtained under R.T.I. Act
 Ext. 2 Xerox copy of the order of the Hon'ble High Court
 Ext. 3 Xerox copy of the lease deed
 Ext. 4 Certified xerox copy of the show cause notice in CrI. Misc. Case No. 144 of 2009
 Ext. 5 Xerox copy of the ROR stands recorded in the name of the father of the Opp. Party
 Ext. 6 Agreement executed by the Opp. Party wherein he has admitted that he has got three acres of land in his share
 Ext. 7 Xerox copy of the certificate issued by the headmaster showing the date of birth of Susanta Kumar Sahoo
 Ext. 7/a Certified issued by the headmaster showing the date of birth of Sukanta Kumar Sahoo
 Ext. 8 Xerox copy of the LIC showing withdrawal of the LIC premium for petitioner No.2
 Ext. 8/a is the LIC premium of petitioner No.3
 Ext. 9 E.C

List of documents by Opp. Party:

- Ext. A LIC payment receipt of Sukanta Kumar Sahoo
 Ext. B Tuition fees of Sukanta Kumar Sahoo.

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