

**IN THE COURT OF THE SESSIONS JUDGE, KHURDA AT  
BHUBANESWAR.**

Present:

**Dr. D.P. Choudhury,**  
Sessions Judge, Khurda  
at Bhubaneswar.

*Dated, Bhubaneswar the 31<sup>st</sup> Oct. '14.*

**Crl. Appeal No.12 of 2014.**

[Arising out of the order dated 10.02.2014 passed by Ms. A. Pradhan, learned J.M.F.C., Bhubaneswar in C.M.C. No.151 of 2013.]

Smt. Pragyan Pattanaik, aged about 34 years, W/o. Major Gautam Patanaik, D/o. Biswa Mohan Pattanaik, At - N- 3/253, I.R.C. Village, Nayapalli, P.S. - Nayapalli, Bhubaneswar, Dist. - Khurda.

At present residing with her father At - Flat No.202, Arohan Residency, Nandan Vihar, P.O. - KIIT, P.S. - Patia Infosys, Bhubaneswar, Dist. - Khurda.

... **Appellant.**

***-V e r s u s-***

1. Gautam Patnaik, aged about 35 years, S/o. Brajakishore Patnaik, Qrs. No.N-3/253, IRC Village, Nayapalli, Bhubaneswar, Dist. - Khurda, serving as Major in Indian Army, At present - 109 Rapid (S) Engineer Regiment, Pin - 914 109, C/o. 56 APO.
2. Dr. Braja Kishore Patanaik, aged about 66 years, S/o. Late Dibakar Patnaik, At - Qrs. No.N-3/253, IRC Village, Nayapalli, Bhubaneswar, Dist. - Khurda.
3. Aparna Patnaik, aged about 58 years, W/o. Dr. Braja Kishore Patanaik, At - Qrs. No.N-3/253, IRC Village,

Nayapalli, P.S. – Nayapalli, Bhubaneswar.

... **Respondents.**

**Counsel :**

For Appellant -- Shri S.R. Mohapatra & Associates.

For Respondents -- Shri R.K. Pradhan & Associates.

**CrI. Appeal No.13 of 2014.**

[Arising out of the order dated 10.02.2014 passed by Ms. A. Pradhan, learned J.M.F.C., Bhubaneswar in C.M.C. No.151 of 2013.]

1. Gautam Pattnaik, aged about 35 years,  
S/o. Dr. Braja Kishore Pattnaik.
  2. Dr. Braja Kishore Pattnaik, aged about 66 years,  
S/o. Late Dibakar Pattnaik.
  3. Smt. Aparna Pattnaik, aged about 57 years,  
W/o. Dr. Braja Kishore Pattnaik.
- All are residents of Plot No.N3/253, I.R.C. Village,  
P.O./P.S. – Nayapalli, Bhubaneswar, Dist. – Khurda.

... **Appellants.**

***-V e r s u s-***

Smt. Pragnyan Pattnaik, aged about 34 years, W/o.  
Gautam Pattnaik, At present : C/o. Biswamohan  
Pattnaik, Plot No.202, Arohan Residency, Nandan Bihar,  
P.S. – Patia Infosis, Bhubaneswar, Dist. – Khurda.

... **Respondent.**

**Counsel :**

For Appellants -- Shri R.K. Pradhan & Associates.

For Respondent -- Shri S.R. Mohapatra & Associates.

Date of argument : 29.10.2014.

Date of judgment : 31.10.2014.

**J U D G M E N T**

These two appeals are disposed of by this common judgment as they are preferred against the order dated 10.02.2014 passed by the learned J.M.F.C., Bhubaneswar in C.M.C. No.151 of 2013. Smt. Pragyan Pattnaik is the aggrieved lady/petitioner whereas her husband Gautam Pattnaik, father-in-law Dr. Braja Kishore Pattnaik and mother-in-law Aparna Pattnaik are opposite party Nos.1, 2 & 3 respectively in the Court below.

2. The parties hereinafter have been referred to as they have been arrayed in the lower Court for the sake of convenience and proper appreciation.

3. Learned counsel appearing for the appellant in Crl. Appeal No.12 of 2014 submitted that the learned J.M.F.C., Bhubaneswar has erred in law by passing the order dated 10.02.2014 to pay a sum of Rs.14,000/- per month towards interim maintenance of the petitioner and her child. It was submitted by him that monthly salary of opposite party No.1 being Rs.1,50,000/-, the amount of maintenance as per the impugned order is in the lower side, since the petitioner is required to meet the expenses of her child towards school tuition fees, private tuition fees, conveyance, fees for extracurricular activities, books, note-books, etc. besides their medical treatment. He submitted that the impugned order

being wrong and illegal the same should be set aside. Thus, he prayed to enhance the maintenance allowance to the extent of Rs.50,000/- per month payable by opposite party No.1 to the petitioner.

4. On the contrary, learned counsel appearing for the appellant in Crl. Appeal No.13 of 2014 submitted that the learned Court below has committed gross error by not considering the pay structure of opposite party No.1 who is receiving less salary and has got liability of maintaining his parents opposite party Nos.2 & 3. He further submitted that the learned Court below has allowed excessive maintenance allowance of Rs.14,000/- to be paid by opposite party No.1 to the petitioner. According to him, the learned Court below has not applied its judicial mind while awarding maintenance allowance. Hence, he prayed to set aside the impugned order.

5. Perused the petition, objection, impugned order and the lower Court record. It is admitted fact that the petitioner has filed the petition against opposite party No.1 and his parents under section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter called "the Act"). It is the allegation of the petitioner that she was not taken care of by the opposite parties for which she claimed maintenance towards fooding, clothing, shelter, medical

expenses, educational expenses of her daughter and legal expenses besides other reliefs under the Act. The opposite parties filed show-cause refuting the allegations and submitted that the petitioner is not entitled to any relief as she has approached the Family Court for necessary action under the Family Court Act. The learned trial Court took up the matter and passed order on 10.02.2014 with regard to payment of interim maintenance, observing that since opposite party No.1 is serving as a Major in Indian Army and the petitioner is unable to maintain herself and her daughter, a sum of Rs.14,000/- is to be deposited in the account of the petitioner by opposite party No.1.

6. In course of hearing of the matter, both parties submitted the documents showing receipt of salary by opposite party No.1. The petitioner has submitted the net amount available to different cadres of the Army from the net, whereas opposite party No.1 has submitted his Salary Certificate showing the amount received by him after deductions. Since the Salary Certificate is more authentic than that of the general statement about the salary of an Army Officer, it is considered the basis for awarding maintenance allowance to the petitioner. Moreover, considering education fees, tuition fees, expenses towards food and other allied expenses of both the

petitioner and her child as well as having regard to the expenses towards maintenance of the parents by opposite party No.1 and towards his self-maintenance, ends of justice would be best served if a sum of Rs.13,000/- for the petitioner and Rs.7,000/- for her daughter per month is payable to the petitioner by opposite party No.1. Hence Ordered :

**O R D E R**

Opposite Party No.1 Gautam Pattnaik is directed to pay a total sum of Rs.20,000/- (Rupees Twenty Thousand) per month to petitioner Pragyan Pattnaik towards maintenance of the petitioner and her daughter from the date of this order. The order dated 10.02.2014 passed by the learned J.M.F.C., Bhubaneswar in C.M.C. No.151 of 2013 is modified to the extent indicated above. Accordingly, Crl. Appeal No.12 of 2014 is allowed in part and Crl. Appeal No.13 of 2014 is dismissed.

**Sessions Judge, Khurda  
at Bhubaneswar.**

31.10.2014.

Dictated, corrected by me and pronounced in the open Court this day the 31<sup>st</sup> October, 2014.

**Sessions Judge, Khurda  
at Bhubaneswar.**

31.10.2014.

