



IN THE HIGH COURT OF ORISSA AT CUTTACK
RPFAM No. 50 of 2026

Debabrata Malick ***Petitioner***

Ms. D.R.Nanda, Advocate
-versus-

Minatilata Malick and ***Opposite Parties***
others

CORAM:
JUSTICE MRUGANKA SEKHAR SAHOO

Order
No.

ORDER
15.04.2026
(Hybrid Mode)

1.

1. Learned counsel for the petitioner was heard at some length.

2. The husband in the marriage is before this Court by filing the application under section 19(4) of the Family Courts Act, 1984 challenging the judgment dated 24.10.2025 in Criminal Proceeding No. 212 of 2023 passed by the learned Judge, Family Court, Bhadrak.

The said criminal proceeding No. 212 of 2023 was filed by the wife in the marriage along with two minor children born from the wedlock; daughter aged about 14 years and son aged about 10 years seeking monthly maintenance under section 125 of Cr.P.C. (since repealed and substituted by *pari materia* provision contained in section 144 of the BNSS, 2023).



The application by the wife and children was favoured and the judgment is under challenge. However, instead of granting ₹50,000/- per month as maintenance for the wife-mother and two children, an amount of ₹7,000/- has been awarded to children petitioner nos.2 & 3 and the wife has been awarded a monthly maintenance of ₹5,000/-, total amount coming to ₹19,000/-.

3. It is submitted by learned counsel for the petitioner, the wife is rich and affluent. She owns petrol pump running.

4. The submissions made before this Court being matters of evidence and pleadings, the learned counsel was requested to refer to the pleadings before the learned Judge, Family Court where such stand was taken. She was also requested to refer to the evidence that was produced before the learned Judge, Family Court to support the contentions those are made in the present application by the opposite party-husband-petitioner in this case.

5. In response to the above queries, which are most pertinent for present adjudication learned counsel for the petitioner submits that she does not have the copy of the objection/written statement of the opposite party before the learned Judge, Family Court.

However, learned counsel submits that the wife has admitted her income in the affidavit furnished in



terms of the decision in **Rajnesh v. Neha and another¹**.

Learned counsel further refers to affidavit which has been annexed to the present revision application marked as Annexure-1 paragraph-F internal page-5. The paragraph 'F' is reproduced herein :

"F. Assets (movable and Immovable) owned by the Deponent

- 1. Self-acquired property, if any: **Nil***
- 2. Properties jointly owned by the parties after marriage: **Nil***
- 3. Share in any ancestral property: **Nil***
- 4. Other joint properties of the party's accounts/investments/FDR/mutual funds, stocks, debentures etc.), their value and status of possession: **Nil***
- 5. Status of possession of immovable property and details of rent, if leased: **Yes***
*(One petrol pump name & style AS MALICK FILLING STATION situated at Durgapali in the dist-sambalpur, but it is basing upon lease the land in favour of me by my father-in-law after lease I have executed a sublease agreement in favour of **Hindustan Petroleum Ltd** by expenses more than rupees Rs 40,00,000/-(forty lakhs only) from landing basis from my father's house and relative for this amount my mother sold her maternal property more than 4 acres at Dhamara which area belongs to my mother's maternal house, but all profit & loss bears by my father-in-law Khirod Ch. Malick and Debabdratt Malick from the year 2012 to till date)*
- 6. Details of loans taken or given by the Deponent:- **Yes** (details loan taken by the deponent on which time my father-in-law Khirod Ch, Malick and my husband Debabdratt Malick were in jail custody from*

¹ AIR 2021 SC 569 : 2020 INSC 631 : (2021) 2 SCC 324



the year 2014 to 2017 and 2nd time jail custody in the year 2019 for a period of five months and at the time of establishment of the Malick filling station situated at Durgapali under district of Sambalpur.

*7. Brief description of jewellery and ornaments of parties acquired during/ after marriage: **No***

*8. Details of transfer deeds or transactions of alienation of properties previously owned by the applicant, executed during the subsistence of the marriage. Also provide brief reasons for such or transaction, if any. **No**"(sic)*

6. It is submitted and suggested by learned counsel for the petitioner that the statements made in paragraph F-5, should deprive the wife in the marriage being paid any monthly maintenance by husband in the marriage.

7. Now, paragraph F-5 is self-explanatory in nature i.e., the Malick Filling Station situated in district Sambalpur is on the land leased by the father-in-law of the wife i.e. father of the husband. Thereafter she has executed a sublease agreement in favour of Hindustan Petroleum Ltd. by spending ₹40,00,000/- from her father. Her maternal property of 4 acres were sold by her mother. The all profit and loss are borne by her father-in-law Khirod Ch. Malick and one Shri Debabratt Malick, the husband. Paragraph-6 of the affidavit reveals that the O.P.-wife has taken loan when her husband and father-in-law were in jail custody from 2014 to 2017 and for the 2nd time for five months in 2019 and when the petrol filling station was established.



8. The response of the husband has been noted and dealt with by the learned Family Court in paragraph-3 of the judgment which is reproduced herein :

“Petitioner No.1, being a housewife without any independent source of income, is unable to maintain herself and her two minor children, who are school-going and dependent entirely on her. On 17.05.2023, when she approached the OP for financial assistance, he flatly denied. Hence, alleging deliberate neglect and refusal to maintain them, the petitioners have prayed this court to direct the OP to pay a sum of Rs.1,50,000/- (Rupees one lakh fifty thousand only) per month towards their maintenance, i.e., Rs.50,000/- each for Petitioners No.1, 2, and 3, to meet their day-to-day expenses, education, medical needs, and to live in accordance with the social status of the OP.3. The OP, while admitting the relationship of parties, has denied almost all other averments of the petitioners. It is admitted that Petitioner No. 1 is his legally wedded wife and Petitioners No.2 and 3 are his children, but the remaining allegations are flatly denied. According to the OP, he and his parents are permanent residents of Sambalpur. His parents being aged and suffering from chronic ailments, were in search of a bride from a middle-class family who could look after them with dignity. At that juncture, the father of Petitioner No.1, being aware that the OP was the only son of his father, himself gave proposal of the marriage. At the time of marriage negotiations, the OP's father clearly told to the father of the petitioner.1, when expresses his inability to give anything due to his scanty income, that he required only a daughter-in-law who would serve and take care of him and his wife, and not dowry. Thus, the marriage between the parties was solemnized on 29.02.2008 without any dowry. Hence, the allegation of payment of Rs.20,00,000/- in cash or gold, silver, household articles, and branded clothes towards dowry is all false and



fabricated. It is the further case of the OP that after marriage, Petitioner No.1 came to reside in his house, but her behaviour towards him and his family members was rude. She often threatened them with false dowry cases. Since there were many domestic servants and cooks in the family, Petitioner No.1 had no household work. Instead of engaging herself in constructive works, she frequently quarreled with the family members. To keep her engaged, the OP's father appointed her in his NGO "BISWA" with a monthly salary of Rs.9,000/-. But she misbehaved with staff and ultimately left the job.

The OP further pleaded that, for the better future of Petitioner No.1, his father leased 0.33 decimals of his self-acquired land at Durgapali on which the petitioner. 1 obtained a petrol pump license under the SC women quota. Thereafter, a filling station styled as "Mallick Filling Station" was established, in which his father invested a sum of Rs.43,76,156/-. Subsequently, the said land was sub-leased to HPCL and all income from the petrol pump has been enjoyed exclusively by Petitioner No.1, who is earning more than Rs.2,00,000/- per month from the said petrol pump. Hence, the claim that she has no income is false. The OP also alleges that the father of Petitioner No.1 once proposed to sell his cultivable lands at Dhamra Port, but when the OP's father declined to purchase, he was threatened with dire consequences. Again, in 2014, when the OP and his father were arrested in connection with an OPID Act case, Petitioner No.1 without showing any mercy, drove out OP's ailing mother and younger sister from the house. They were forced to stay separately with much distress. At that time, one Debidutta @ Puja came forward to care for them. For her selfless service the OP's father adopted her as his daughter in 2018 . The OP's mother, who was suffering from schizophrenia and other ailments, ultimately died in December 2019. Petitioner No.1 did not attend her last rites despite repeated requests. For such act she insulted the tradition of Op's family.



The OP contends that since 2015, Petitioner No.1 has been showing inimical attitude towards Debidutta. She was constantly attempting to remove her from the household being instigated by her father. The OP Mother pleaded that the allegations that the OP and his father demanded Rs. 15,00,000/- as additional dowry are false. The OP further alleges that on 05.04.2023, under the pressure of her father, Petitioner No.1 lodged a false complaint at Bhadrak Rural Police Station, compelling him to sign a compromise without reading its contents. Thereafter, on 15.05.2023, she lodged another FIR with false accusations against him, his father, and Debidutta. During investigation, his father and Debidutta were exonerated as they were residing separately. But the Petitioner No.1 kept filing false allegations before higher authorities, even alleged that attempts were made by OP's father to outrage her modesty. But such allegations were found baseless.

The OP has further stated that Petitioner No.1 is financially affluent, holding multiple bank accounts in SBI, Axis Bank, HDFC, Indian Bank, and ICICI Bank, both in her name and in the name of Mallick Filling Station. She has invested crores of rupees through benami transactions and is an income tax assessee. She has not even paid the agreed rent to his father for the petrol pump land, for which a case is pending. She has also misappropriated more than Rs.43 lakhs from his father, leading to a criminal case against her. It is further contended that all household and family expenses of Petitioner No.1 and her children were borne by the OP's father. Petitioner No.1, behind their back, frequently sending money to her parental house. The real reason behind the false cases is her annoyance when the OP's father wanted to cancel the lease of the petrol pump. The OP pleaded that Petitioner No. 1 voluntarily deserted him at the instigation of her father, without just cause. Hence, she is not entitled to any maintenance. The OP averred that his only source of income is from LIC commission income



which ranges from Rs.34,000/- to Rs.35,000/- per month. He is willing to maintain Petitioners No.2 and 3. but not the Petitioner No.1. As the petitioner.1 has independent and substantial source of income from the petrol pump . On these grounds, the OP prayed for dismissal of the proceeding.”

9. The following issues have been framed by the trial court :

“4. Considering the pleadings of both the parties, the following points need to be discussed:

- i) Is the petition maintainable in the eye of law?*
- ii) Whether the petitioners are the wife and children of the opposite party?*
- iii) Whether the opp.party having sufficient means, has neglected and refused to maintain the petitioners?*
- iv) Whether the petitioners are unable to maintain themselves?*
- v) Whether the petitioners are entitled to get maintenance from the opp. Party & if so, what should be the quantum of maintenance?”*

10. The submission on behalf of the husband-opposite party has been noted by the learned Family Court at paragraph-7 of the judgment, is reproduced herein :

“Per contra, learned counsel for the Opposite Party contended that though the marriage between the parties and the birth of their child are admitted, the petitioner has approached this



Court with unclean hands, suppressing several material facts. It is submitted that in her evidence affidavit, the petitioner has not refuted the specific averments made in the written objection, which indicates her tacit admission thereof. The petitioner has concealed material particulars in her affidavit of assets and liabilities, including the pendency of D.V. Case No.159/2023, details of 14 bank accounts, non-filing of I.T. returns for the last three years, and the rent she receives from the petrol pump. It is argued that the petitioner's plea of having obtained Rs.3,00,000/- from her father's house and financial assistance of Rs. 1,00,000/- per month from her brother is false. The claim of taking loans of Rs.40 lakhs for establishing the petrol pump is unbelievable and unsubstantiated by any document. Likewise, taking loan of and Rs.2.60 crores by the petitioner. 1 and payment of E.M.I of Rs.25,000/- per month is far from truth. The alleged dowry of Rs.20 lakhs, 80 bhari gold, 40 bhari silver and other articles is also not proved, nor is there evidence that her mother and aunt sold land to meet such expenses. Considering that her father was a retired primary school teacher, the story of providing such a large sum is improbable. Learned counsel further submitted that the petitioner has made false and exaggerated statements, such as being assaulted over a thousand times in 2008. If the alleged assault had actually taken place, it is difficult to understand why Petitioner No.1 continued to reside in the matrimonial home with the Opposite Party until 2023. Such prolonged cohabitation casts doubt on the veracity of the allegations and suggests an inconsistency in the claim. Being an educated, meritorious, and ambitious woman aspiring to become an I.A.S. officer, she is capable of maintaining herself independently. It is further contended that the father of the OP had leased out Ac.0.33 dec. of land to the petitioner for establishing a petrol pump under the SC Woman quota, for which he spent about Rs.44 lakhs,



though the petitioner was made proprietor only in name. The petrol pump was later sub-leased to HPCL, and the petitioner is receiving Rs.7,381/- and Rs.25,000/- monthly towards rent, but she never paid any amount to her father-in-law as per the lease terms. When her demand to permanently transfer the petrol pump land in her name was refused by the OP's father, she lodged a false FIR alleging dowry demand of Rs.15 lakhs and voluntarily left the matrimonial home on 15.05.2023 with her belongings and children. Thereafter, she filed multiple false cases against the OP and his family, whereas cases like G.R.Case No.1785/2023 and C.S. Nos.33/2023 & 38/2023 have been filed against her for cheating and misappropriation of lease rent. The petitioner has not produced any proof of the OP's alleged high income; rather, his actual income from his job in LIC is around Rs.34,000-Rs.35,000/- per month. The other family properties stand seized by various investigating agencies after his father's death. It is therefore argued that the petitioner, being self-sufficient with a stable income from the petrol pump, is not entitled to maintenance, and that she left the company of the OP without any justifiable reason. Hence, the petition deserves dismissal."

"13. As per the petitioner.1, she has no source of income. She is not an income tax assessee. She has not filed any copies of income tax returns. It is admitted by her that she is receiving rent from a petrol Pump namely Mallick Filling Station situated at Durgapali, Sambalpur. The land over which the petrol pump stands was leased in favour of the petitioner.1 by her father-in-law. The OP and her father-in-law bear all profit and loss from the petrol pump. She has not filed any of her bank statement accounts. But it is admitted by the petitioner. 1 at P-24 of her cross examination that there are 14 bank accounts in her name. Non-filing of the bank statements would definitely



go against the petitioner.1, as she wants to keep this court in darkness about material facts.”

11. The evidence of the petitioner have been noted at page-16 paragraph-8 of the judgment which is reproduced herein :

“8. It is admitted that the petitioner.1 is the wife of the OP and the rest two petitioners are the children of the OP. The rest points for determinations are closely inter-linked. Hence, it is felt proper to discuss those under one heading.

The petitioner No. 1, examined herself as P.W.I. She deposed that she is the legally wedded wife of the O.P and two children were born out of their wedlock. The OP is not disputing this fact. At the time of marriage, her father had given Rs. 20,00,000/- in cash, 30 bhari of gold ornaments, 40 bhari of silver ornaments, and various costly household articles, including electronic goods and furniture, as dowry in fulfillment of the demand of the O.P and his family. But no document to that effect has been filed by the petitioner.1 before this court. Her evidence regarding dowry was only confined to her sole oral testimony. She alleged that soon after marriage, the behaviour of the O.P and his family members changed, and she was subjected to physical and mental cruelty. The O.P, being a habitual drunkard, used to come home late at night and assault her without cause. She further deposed that after the death of her mother-in-law, her father-in-law kept one lady, namely Debidatta Sahu (also known as Puja), who interfered in the family affairs and instigated both the O.P and his father to ill-treat her. The petitioner was frequently assaulted and abused by the O.P, his father, and the said Debidatta. She also alleged that the O.P and his father demanded an additional dowry of



Rs.15,00,000/-, and upon her refusal, they subjected her to further cruelty.

8. a According to her, on 08.01.2023, she was assaulted by the O.P with a cricket bat and was compelled to take shelter in her paternal house. The matter was reported to Bhadrak (R) Police Station, where the O.P executed an undertaking on 11.01.2023 assuring not to assault or abuse her. However, on 14.05.2023, a similar incident occurred, and she was again assaulted, which led her to lodge an FIR before the Mahila Police Station, Sambalpur on 15.05.2023. Since then, she has been residing with her parents along with her minor children, and the O.P has neither visited her nor paid any maintenance to her or the children. The petitioner. 1 was cross examined extensively. But her stand on alleged torture could not be shattered.”

12. The evidence of the opposite party has been noted in page-17 at paragraph-9 of the judgment which is reproduced herein :

“On the other hand, the O.P in his evidence has denied all allegations of cruelty and dowry demand, asserting that the petitioner is financially affluent and voluntarily deserted him. As per his evidence, after a few days of marriage, the petitioner's behaviour changed and she started misbehaving with all the family members and threatened to file false cases under dowry and cruelty laws. He further deposed that in 2014, while he and his father were in jail custody, the petitioner drove out his ailing mother and younger sister from the house, forcing them to take shelter in another building. Even, when his mother passed away in 2019 the petitioner did not attend her funeral. It is specifically submitted by the O.P that in April 2023, the petitioner. 1 had filed a false FIR at Bhadrak (R) Police Station, which was later compromised. Thereafter, when



his late father initiated steps to cancel the lease of the petrol pump land, the petitioner. 1 became furious and on 15.05.2023 lodged another false FIR before the Mahila P.S., Sambalpur. On that day she has voluntarily left her matrimonial home with her children without any reasonable cause.”

13. It is submitted by the learned counsel on behalf of opposite party-petitioner-husband, he will pay the amount to the children from the wedlock who are staying with the mother but he will not pay any amount to the wife in the marriage.

14. The contention regarding the scope and applicability of Section 125, Cr.P.C (since repealed and substituted by *pari materia* provision contained in section 144 of the BNSS, 2023) has been elaborately dealt with by the Hon’ble Supreme Court in the judgment in **Rajenesh v. Neha** (supra).

The issue when the wife is capable of earning/employed and is earning is also has been dealt with, whether she is entitled or not entitled for any maintenance has been dealt with in **Rajenesh v. Neha** (supra).

15. The scope of interference by this Court by exercising the revisional jurisdiction in judgments and orders granting maintenance under Section 125, Cr.P.C. (since repealed and substituted by *pari materia* provision contained in section 144 of the BNSS, 2023) has been elaborately dealt with by the Hon’ble Supreme Court in **Shamima Farooqui v.**



Shahid Khan², paragraphs-19 and & 20 (SCC Online print).

16. Whether the husband should pay at all the maintenance or not to the wife and child has also been dealt with by the Hon'ble Supreme Court in **Rajnesh v. Neha** (*supra*)

17. Learned counsel for the petitioner is apprised if it is assumed that the affidavit made by the opposite party-wife to be taken note of what would turn on same, as in **Rajnesh v. Neha**(*supra*), the Hon'ble Supreme Court has dealt with the issue how the Courts should deal with a situation where “(c) *Where wife is earning some income*”. The relevant paragraphs from the said judgment which settle the issue are paragraphs 90, 90.1, 90.2, 90.3, 90.4 & 90.5) of SCC print:

18. It has to be noted that the scope of interference by High Court in exercise of power of revision in the kind of judgments/orders that is being dealt with i.e. grant of maintenance U/s.125 of Cr.P.C. has been authoritatively dealt with by the Hon'ble Supreme Court in **Shamima Farooqui** (*supra*) the paragraphs 15, 16, 17, 18, 19, 20 and 21 (SCC online web edition print).

19. Learned counsel for the petitioner has adjournment to address on the aforesaid issues on the question of law.

²(2015) SCC 705



20. In view of the clear pronouncement of the Hon'ble Supreme Court ***Rajnish v. Neha*** (*supra*) that amount directed to be paid to the wife and children is akin to a money decree, the learned counsel for the petitioner shall obtain instruction how the petitioner would secure the amount to sustain the challenge before this Court.

21. To grant further opportunity the matter shall be listed in the week commencing 04.05.2026.

(Mruganka Sekhar Sahoo)
Judge

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