



IN THE HIGH COURT OF ORISSA AT CUTTACK

RPFAM No.411 of 2025

Rakesh Kumar Dash

....

Petitioner

Mr. S.K. Barik, Advocate

-versus-

Kumkum Sarangi

....

Opp. Party

CORAM:

HON'BLE MR. JUSTICE MRUGANKA SEKHAR SAHOO

ORDER

07.04.2026

(Hybrid Mode)

Order No.
03.

1. The matter was heard at length on 28.01.2026. Learned counsel for the Petitioner had adjournment to address regarding the jurisdiction of this Court under Section 19(4) of the Family Courts Act and also the revisional jurisdiction. When again on 13.03.2026 the matter was taken up, another learned counsel sought for adjournment and the matter was adjourned. Today, Mr. Barik, learned counsel for the Petitioner submits that notice may be issued.

2. In considered opinion of this Court for exercising jurisdiction under Section 19(4) of the Family Courts Act read with the revisional



jurisdiction, this Court has to be prima facie satisfied that a case is made out for issuance of notice looking at the materials on record, i.e., the judgment of learned Judge, Family Court, Rourkela and pleadings and depositions as would be available.

3. The revision is challenge to the judgment dated 13.11.2025 passed by the learned Judge, Family Court, Rouekela in Criminal Proceeding No.20 of 2024. The Petitioner-wife and Opposite Party-husband got married on 01.03.2023 at Rourkela. The proceeding was initiated by the wife in the marriage then aged about 31 years under Section 125 of Cr.P.C. seeking monthly maintenance, stating that to prevent destitution and vagrancy she requires Rs.30,000/- per month.

The present Petitioner-husband appeared and contested the matter by filing written statement. The claimant examined herself as P.W. 1 and Opposite Party examined himself as OPW 1, the father of the Opposite Party-present Petitioner deposed as OPW 2.

The learned Judge, Family Court has dealt with the essential ingredients of Section 125 of Cr.P.C. The Opposite Party husband contended that the Petitioner wife was earning, but did not adduce any evidence. The further finding of fact by the learned Judge, Family Court that the Petitioner used to work when she was with her husband and after she left



the matrimonial house she has stopped working and she had filed a proceeding seeking divorce. The husband was directed to pay Rs.15,000/- as maintenance per month to the Petitioner from the date of application, i.e., 24.02.2024.

Learned counsel for the Petitioner upon instruction submits that the Petitioner has not paid any amount towards interim maintenance or maintenance to the Opposite Party wife from 24.02.2024 till 24.03.2026 for 25 months the amounting comes to Rs.3,75,000/-.

4. The scope and application of Section 125 of Cr.P.C. has been elaborately dealt with by the Hon'ble Supreme Court in **Rajensh v. Neha: 2020 INSC 631: (2021) 2 SCC 324**. The relevant paragraphs are reproduced herein.

“36. The amended Section 125 reads as under:

“125. Order for maintenance of wives, children and parents.—(1) *If any person having sufficient means neglects or refuses to maintain—*

(a) his wife, unable to maintain herself, or

(b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself, or

(d) his father or mother, unable to maintain himself or herself, a Magistrate of the First Class



may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate as such Magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to time direct:

Provided that the Magistrate may order the father of a minor female child referred to in clause (b) to make such allowance, until she attains her majority, if the Magistrate is satisfied that the husband of such minor female child, if married, is not possessed of sufficient means:

Provided further that the Magistrate may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this sub-section, order such person to make a monthly allowance for the interim maintenance of his wife or such child, father or mother, and the expenses of such proceeding which the Magistrate considers reasonable, and to pay the same to such person as the Magistrate may from time to time direct:

Provided also that an application for the monthly allowance for the interim maintenance and expenses of proceeding under the second proviso shall, as far as possible, be disposed of within sixty days from the date of the service of notice of the application to such person.

Explanation.—For the purposes of this Chapter—

(a) “**minor**” means a person who, under the provisions of the Indian Majority Act, 1875 (9 of 1875); is deemed not to have attained his majority;

(b) “**wife**” includes a woman who has been divorced by, or has obtained a divorce from, her husband and has not remarried.

(2) Any such allowance for the maintenance or interim maintenance and expenses of proceeding shall be payable from the date of the order, or, if so ordered, from the date of the application for



maintenance or interim maintenance and expenses of proceeding, as the case may be.

(3) If any person so ordered fails without sufficient cause to comply with the order, any such Magistrate may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person, for the whole or any part of each month's allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be, remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made:

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Court to levy such amount within a period of one year from the date on which it became due : Provided further that if such person offers to maintain his wife on condition of her living with him, and she refuses to live with him, such Magistrate may consider any grounds of refusal stated by her, and may make an order under this section notwithstanding such offer, if he is satisfied that there is just ground for so doing.

Explanation.—If a husband has contracted marriage with another woman or keeps a mistress, it shall be considered to be a just ground for his wife's refusal to live with him.

(4) No wife shall be entitled to receive an allowance for the maintenance or interim maintenance and expenses of proceeding, as the case may be, from her husband under this section if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by mutual consent.

(5) On proof that any wife in whose favour an order has been made under this section is living



in adultery, or that without sufficient reason she refuses to live with her husband, or that they are living separately by mutual consent, the Magistrate shall cancel the order.”

(emphasis supplied)

37. *In Chaturbhuj v. Sita Bai [Chaturbhuj v. Sita Bai, (2008) 2 SCC 316: (2008) 1 SCC (Civ) 547 : (2008) 1 SCC (Cri) 356] this Court held that the object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife by providing her food, clothing and shelter by a speedy remedy. Section 125 CrPC is a measure of social justice especially enacted to protect women and children, and falls within the constitutional sweep of Article 15(3), reinforced by Article 39 of the Constitution.*

38. *Proceedings under Section 125 Cr PC are summary in nature. In Bhuwan Mohan Singh v. Meena [Bhuwan Mohan Singh v. Meena, (2015) 6 SCC 353 : (2015) 3 SCC (Civ) 321 : (2015) 4 SCC (Cri) 200] this Court held that Section 125 CrPC was conceived to ameliorate the agony, anguish, financial suffering of a woman who had left her matrimonial home, so that some suitable arrangements could be made to enable her to sustain herself and the children. Since it is the sacrosanct duty of the husband to provide financial support to the wife and minor children, the husband was required to earn money even by physical labour, if he is able-bodied, and could not avoid his obligation, except on any legally permissible ground mentioned in the statute.*

39. *The issue whether presumption of marriage arises when parties are in a live-in relationship for a long period of time, which would give rise to a claim under Section 125 Cr PC came up for consideration in Chanmuniya v. Virendra Kumar Singh Kushwaha [Chanmuniya v. Virendra Kumar Singh Kushwaha, (2011) 1 SCC 141 :*



(2011) 1 SCC (Civ) 53 : (2011) 2 SCC (Cri) 666. This judgment was referred to a larger Bench.] before the Supreme Court. It was held that where a man and a woman have cohabited for a long period of time, in the absence of legal necessities of a valid marriage, such a woman would be entitled to maintenance. A man should not be allowed to benefit from legal loopholes, by enjoying the advantages of a de facto marriage, without undertaking the duties and obligations of such marriage. A broad and expansive interpretation must be given to the term “wife”, to include even those cases where a man and woman have been living together as husband and wife for a reasonably long period of time. Strict proof of marriage should not be a precondition for grant of maintenance under Section 125 CrPC. The Court relied on the Malimath Committee Report on Reforms of Criminal Justice System published in 2003, which recommended that evidence regarding a man and woman living together for a reasonably long period, should be sufficient to draw the presumption of marriage.

40. The law presumes in favour of marriage, and against concubinage, when a man and woman cohabit continuously for a number of years. Unlike matrimonial proceedings where strict proof of marriage is essential, in proceedings under Section 125 CrPC such strict standard of proof is not necessary.”

5. In *Shamima Farooqui v. Shahid Khan*: 2015 INSC 283: (2015) 5 SCC 705 the apex Court have laid down the principles regarding interference by High Court in exercise of revisional jurisdiction and the relevant paragraphs are reproduced herein:

“19. From the aforesaid enunciation of law it is



limpid that the obligation of the husband is on a higher pedestal when the question of maintenance of wife and children arises. When the woman leaves the matrimonial home, the situation is quite different. She is deprived of many a comfort. Sometimes her faith in life reduces. Sometimes, she feels she has lost the tenderest friend. There may be a feeling that her fearless courage has brought her the misfortune. At this stage, the only comfort that the law can impose is that the husband is bound to give monetary comfort. That is the only soothing legal balm, for she cannot be allowed to resign to destiny. Therefore, the lawful imposition for grant of maintenance allowance.

20. In the instant case, as is seen, the High Court has reduced the amount of maintenance from Rs.4000 to Rs.2000. As is manifest, the High Court has become oblivious of the fact that she has to stay on her own. Needless to say, the order of the learned Family Judge is not manifestly perverse. There is nothing perceptible which would show that order is a sanctuary of errors. In fact, when the order is based on proper appreciation of evidence on record, no Revisional Court should have interfered with the reason on the base that it would have arrived at a different or another conclusion. When substantial justice has been done, there was no reason to interfere. There may be a shelter over her head in the parental house, but other real expenses cannot be ignored. Solely because the husband had retired, there was no justification to reduce the maintenance by 50%. It is not a huge fortune that was showered on the wife that it deserved reduction. It only reflects the non-application of mind and, therefore, we are unable to sustain the said order.

[Underlined to supply emphasis]

6. The approach of the Court that should be when



the husband denies to pay any amount has also been dealt with in ***Shamima Farooqui*** (*supra*) as well as in ***Rajnesh*** (*supra*).

For sustaining the challenge the Petitioner, if so advised, shall file affidavit how he will secure the unpaid amount of Rs.3,75,000/-.

7. The matter shall be listed for fresh admission in the week commencing 04.05.2026.

(Mruganka Sekhar Sahoo)
Judge

Amit

Signature Not Verified

Digitally Signed
Signed by: AMIT KUMAR MOHANTY
Reason: Authentication
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 10-Apr-2026 19:24:39

