
(2000) 11 OHC CK 0039
In the Orissa High Court
Case No : Criminal Revision No. 595 of 2000

Sitakanta Rath

APPELLANT

Vs

Jyotirmayee Rath and Another

RESPONDENT

Date of Decision : 08-11-2000

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125

Citation : (2001) 20 OCR 8

Hon'ble Judges : P.K. Tripathy, J

Bench : Single Bench

Advocate : A.K. Rao, M. Sampat, S.P. Dash and P. Sahoo, for the Appellant; S.S. Das, B.R. Das, K. Behera and R.R. Mohapatra, for the Respondent

Judgement

P.K. Tripathy, J.—Heard.

2. This Revision Application is disposed of at the stage of hearing on admission since the opposite parties have entered appearance. Mr. S.S. Das, Advocate appears for both the opposite parties.

3. Initially, objection was taken by the opposite parties on maintainability of this Revision as against the composite orders passed disposing of three applications vide impugned order dated 30.9.2000. Mr. Rao, learned Counsel for the Petitioner, thus, had paid the additional Court fees of Rs. 12/- in the Court itself which may be properly accounted for by the office in the relevant registers.

4. Petitioner is the opposite party in Criminal Misc. Case No. 47 of 1997 which is a proceeding u/s 125, Code of Criminal Procedure, presently pending in the Court of J.M.F.C., Bhubaneswar. Petitioner filed an application on 24.8.2000 with a prayer to call for the Admission Register of Godisahi V.P. School, Cuttack to show that opposite party No. 2, Sagarika Rath is a regular student in that school. Similarly, he filed another application dated 30.8.2000 to call for the report of the Process-Server regarding service of the notice on opposite party No. 2, Sagarika Rath through her mother at a particular place. Both the aforesaid

evidences were sought to be introduced by calling for the said documents for the reasons of challenging the jurisdiction of the J.M.F.C., Bhubaneswar. Mr. Das, learned Counsel for the opposite parties has said that the dispute relating to jurisdiction has been set at rest in Criminal Revision No. 495 of 1997. Be that as it may, when the Petitioner is desirous for adducing some evidence, there should not be any prohibition when he is legally entitled to do so. Only an attitude to delay the disposal of the case may be safeguarded. Therefore, while setting aside the order of the J.M.F.C., Bhubaneswar in which she rejected the two applications dated 24.8.2000 and 30.8.2000, it is directed that the Petitioner shall produce the authenticated copy of the documents, i.e., Admission Register of Godisahi U.P. School and the report of the Process-Server and it may be admitted on evidence if not objected by the opposite parties or if they admit the same, and in that event calling for such documents shall not be necessary. It is the prerogative of the opposite parties (wife and the daughter) either to admit or to contest on that evidence and therefore in the event they do not admit such documents or object to acceptance of the same as evidence, then if the Petitioner shall file an application afresh to call for such documents and summoning of witnesses to prove such documents, then the concerned Admission Register and the report of the Process-Server in original be called for and named witnesses be summoned.

5. The third phase of the impugned order dated 30.9.2000 is the order granting interim maintenance on the prayer of the opposite parties No. 1 and 2. Learned J.M.F.C., on due consideration of the prayer, has granted interim maintenance at the rate of Rs. 300/- (Rupees three hundred) and Rs. 200/- (Rupees two hundred) to the mother and the daughter respectively, and that order has been made operative with effect from 12.9.2000. This Court finds no reason to interfere with the said order. However, it is made clear that if the Petitioner shall defeats in making payment of that interim maintenance, he may be debarred to contest the case. So far as the arrear interm maintenance for the months of September and October, 2000 are concerned, as prayed for by the Petitioner, that be paid by the end of December, 2000, i.e., before closure of the Court for Winter Vacation.

6. The Criminal Revision is disposed of accordingly.