

**AFR**



**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**RPFAM No.295 of 2022**

An application under Section 19(4) of Family Courts Act, 1984.

|                                        |             |                         |
|----------------------------------------|-------------|-------------------------|
| <b>Ajay Kumar Mangaraj</b>             | <b>....</b> | <b>Petitioner</b>       |
| <b>Versus</b>                          |             |                         |
| <b>Sabita Mangaraj<br/>and another</b> | <b>....</b> | <b>Opposite Parties</b> |

**Advocates appeared in the case :**

For Petitioner: Mr. R. Mahato, Advocate

For Opp. Parties: Ms. Dipti Dhall, Advocate

**CORAM:**  
**THE HON'BLE MR. JUSTICE MRUGANKA SEKHAR SAHOO**

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

-----  
**Date of hearing and judgment: 9<sup>th</sup> July, 2026**  
-----

**MRUGANKA SEKHAR SAHOO, J.**

1. The learned counsel for the petitioner as well as the learned counsel for the opposite parties were heard at length.
2. The petitioner-husband in the marriage invoking Section 19(4) of the Family Courts Act, 1984 seeks revision of the order dated 15.10.2022 passed by the learned Judge, Family Court-II, Bhubaneswar in CMA No.139 of 2016. The said



CMA was filed by the wife in the marriage then aged about 39 years and minor son born from the wedlock then aged about 15 years seeking enhancement of monthly maintenance directed earlier in MAT Case No.495 of 2007 directing payment of ₹3,000/- to the wife in the marriage and ₹1,500/- to the child, per month. The order in MAT Case No.495 of 2007 was passed by the learned Civil Judge (Sr. Division), Bhubaneswar.

**3.** Learned counsel for the petitioner raises a question of law. It is submitted that the earlier MAT Case No.495 of 2007 which was allowed by judgment dated 12.08.2010 was an ex-parte judgment.

It is submitted that the said MAT case was filed U/s.18 read with Section 20(2) of the Hindu Adoption and Maintenance Act, 1956 seeking a direction for payment of monthly maintenance at the rate of ₹6,000/- for the wife and ₹3,000/- for the child. Section 25 of the Hindu Adoption and Maintenance Act, 1956 is the correct provision to be applied seeking enhancement of the amount awarded, allowing the MAT Case No.495 of 2007 the learned Civil Judge (Sr. Division) directing payment of maintenance.

**4.** It is submitted that the learned Judge, Family Court-II, Bhubaneswar could not have passed order U/s.127 of the Cr.P.C. for enhancement of the amount.

For the convenience of reference, Section 25 of the Hindu Adoption and Maintenance Act, 1956 is reproduced herein:



***“25. Amount of maintenance may be altered on change of circumstances.—The amount of maintenance, whether fixed by a decree of court or by agreement, either before or after the commencement of this Act, may be altered subsequently if there is a material change in the circumstances justifying such alteration.”***

[underlined to supply emphasis]

5. After hearing learned counsel for the petitioner as well as the learned counsel for the opposite parties on 10.03.2026, the following was observed by this Court:

“4. It is submitted that Section 25 of the Hindu Adoption and Maintenance Act, 1956 is the appropriate provision for seeking enhancement of the amount awarded. While allowing the MAT Case No.495 of 2007 the learned Civil Judge (Sr. Division) had directed payment of maintenance of ₹3,000/- to the wife in the marriage and ₹1,500/- to the child. It is submitted that the learned Judge, Family Court-II, Bhubaneswar could not have passed order U/s.127 of the Cr.P.C. for enhancement of the amount.

5. In response to the said submission, the learned counsel was asked whether quoting of a wrong provision would affect the jurisdiction of the Court i.e. the learned Judge, Family Court-II, Bhubaneswar to pass an order. It is fairly submitted that it would not affect the jurisdiction to pass the order for enhancement but when the original order that was passed was not U/s.125 of Cr.P.C. but U/s.8 of Hindu Adoption and Maintenance Act, 1956. The application for enhancement could not have been filed U/s.127 of Cr.P.C.

6. Further, it was brought to the notice of the learned counsel for the petitioner that in the judgment rendered in *Rajnesh v. Neha*: (2021) 2 SCC 324 decided on 04.11.2020 the Hon’ble Supreme Court have issued guidelines regarding the issue of overlapping jurisdiction i.e. jurisdiction(s) exercised by



various Courts under various provisions such as Section 125 of Cr.P.C. and Domestic Violence Act in which the applications are usually made before the Magistrate, sections 24 and 25 of the Hindu Marriage Act read with sub-sections for which the jurisdiction is exercised by the learned Judge, Family Court or Civil Judge (Sr. Divn.) as the case may be; further, the jurisdiction U/s.18 and 25 of the Hindu Adoption and Maintenance Act, to be exercised by Civil Judge (Sr. Division).

7. To avoid conflicting and multiplicity of orders by several Courts which at times causes hardship for both the parties to a claim for maintenance that is the person who is seeking maintenance and person who is to give the maintenance, the usual practice after the directions issued by the Hon'ble Supreme Court in *Rajnesh* (supra) is that all such claims for maintenance are being entertained by the learned Judge, Family Court."

**6.** Learned counsel appearing for the opposite parties reiterates her submission that the opposite party-wife in the marriage as well as the child who has now become a young adult pursuing higher studies, require maintenance at enhanced rate and that the order passed by the learned Family Court is just and proper and need not to be interfered with.

**7.** In response to the order dated 10.03.2026 passed by this Court reproduced above, it is submitted by the learned counsel for the petitioner that the learned Judge Family Court-II, Bhubaneswar did not have jurisdiction to entertain an application under Section 127 of the Cr.P.C., a statute different from the Hindu Adoption and Maintenance Act, 1956 (HAMA),



as the original order directing payment of maintenance was passed in an application made by the present opposite parties under Section 18 read with Section 20(2) of the Hindu Adoptions & Maintenance Act, 1956.

Certified copy of the judgment dated 12.08.2010 in MAT Case No.495 of 2007 filed by the present opposite parties-wife and child under Section 18 of the HAMA, the present petitioner being the respondent along with a photo copy, is produced by the learned counsel for the petitioner for perusal. Photocopy of the said judgment is retained and kept on record. The certified copy is directed to be returned.

**8.** Referring to the decision rendered by the Hon'ble Apex Court in ***Rajnesh v. Neha and another. (2021) 2 SCC 324: 2020 INSC 631*** as was cited in the order 10.03.2026 of this Court in the present proceeding, it is submitted by the learned counsel for the petitioner that the direction of the Apex Court regarding overlapping jurisdiction and different proceedings to be taken up by one court to avoid conflict of opinions of courts, as well as to minimise difficulty to the parties: that all matters should be 'taken up by one court' was in the context of the application filed under Hindu Marriage Act seeking maintenance under Sections 24 and 25, application filed under Hindu Adoptions and Maintenance Act, 1956, application filed seeking maintenance under Section 125 of Cr.P.C. (since repealed and substituted by pari materia provision contained in Section 144 of BNSS, 2023) and application filed under provision of the Protection



of Women From Domestic Violence Act, 2005, wherein, in all such applications maintenance is sought for.

**9.** Learned counsel for the petitioner further submits that in the case at hand such is not the scenario; rather the opposite parties had sought for maintenance under the provisions of Hindu Adoptions and Maintenance Act, 1956 which was granted against the opposite party-husband-father. The Court to exercise jurisdiction to enhance such award has to be in terms of Section 25 of the HAM Act.

**10.** The learned counsel for the opposite parties making her submissions in response submits that the opposite parties being the petitioners before the learned Judge, Family Court-II, Bhubaneswar required enhancement of maintenance and accordingly they approached the court.

However, she does not dispute that the application was made under Section 127 of Cr.P.C.

**11.** Now, this Court has to take note of obvious mistake in approach of the learned Judge, Family Court in proceeding with the matter under a different provision not contemplated in the statute also not directed in **Rajnes** (*supra*).

It is seen that somehow, the judgment under challenge, passed under Section 127 of Cr.P.C. also does not refer to the earlier application or the judgment and order made therein under Sections 18 and 20 of the HAM Act, 1956. The probable reason for the learned court to proceed erroneously was absence of copy of the petition earlier filed purportedly under Section 125 of Cr.P.C. and the records of



judgment rendered therein whereas there was no petition filed under Section 125 of Cr.P.C.

**12.** Having considered the submissions of the learned counsel for the parties and in view of the discussions made above, the order dated 15.10.2022 passed in CMA No.139 of 2016 by the learned Judge, Family Court-II, Bhubaneswar cannot be sustained. The same is set aside and quashed.

**13.** It is further clarified and directed that the present opposite parties shall have the remedy of approaching the learned court of jurisdiction under Section 25 of Hindu Adoption and Maintenance Act, 1956 for enhancement of the monthly maintenance directed @ Rs.3,000/- for the wife in the marriage and @ Rs.1500/- for the child, by order dated 12.08.2010, passed in MAT Case No.495 of 2007 by the learned Civil Judge (Senior Division), Bhubaneswar.

**14.** It is further clarified that since the earlier application under Section 127 of Cr.P.C. filed on 26.11.2016 was registered as CMA No.139 of 2016 and disposed of by final order dated 15.10.2022 which has now been set aside; the application of the present opposite parties if presented seeking enhancement of maintenance under Section 25 of HAM Act, 1956, shall be considered taking 26.11.2016 as the deemed date of application.

This Court has expressed no opinion regarding the merits of the case that may be filed under Section 25 of the HAMA.



**15.** The revision application is allowed and disposed of with the above observations and directions.

Now, no costs.

***Mruganka Sekhar Sahoo***  
***Judge***

*Orissa High Court, Cuttack*  
*The 9<sup>th</sup> July, 2026/Jyostna*