

**HIGH COURT OF TRIPURA
AGARTALA
IA No.01 of 2023 IN CRL REV P No.19 of 2023**

Sri Shaid Ahmed

..... Applicant(s)

V E R S U S

Bimarun Nessa and others

.....Respondent(s)

For Applicant(s) : Mr. Anirban Bhattacharjee, Advocate.

For Respondent(s) : Ms. N. Ghosh, Legal Aid Counsel

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

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19.05.2023

Heard learned counsel for the parties on the prayer for condonation of delay of 37 days in preferring the instant revision petition against the order dated 14.09.2022 passed by the learned Family Court, Kailashahar, Unakoti Tripura in Crl Misc(125) 75 of 2021 whereby the learned Family Court has awarded monthly maintenance at the rate of Rs.2,000/- each to the petitioner No.1 wife and the two minor children, petitioners No.2 & 3 / respondents herein with effect from the date of filing of the application i.e. 21.09.2021. Arrears up to that date were to be paid in installments at the rate of Rs.1,000/- along with regular monthly maintenance. The total maintenance amount was to be paid in the bank account of the petitioner within 10th day of every English Calendar Month.

Upon hearing learned counsel for the parties and the explanation urged, delay being minor, is condoned.

The application stands disposed of.

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Heard learned counsel for the parties on the merits of the main revision petition. The main ground of challenge made by the petitioner is that even as per the findings of the learned Family Court contained at paragraphs 12 and 13, the petitioner has been found to be at best a skilled worker who can easily earn Rs.500/- per day. Assuming he gets 25 days of work in a month, his income would be up to Rs.12,500/- per month.

Learned counsel for the petitioner submits that the respondent-wife is staying away without any valid cause. One minor daughter is also staying with the petitioner. The yardsticks applied by the learned Family Court in favour of the wife and two minor children would leave little amount for the petitioner to manage his affairs, maintain the minor child and also his widowed sister. Therefore, the impugned order is not sustainable as it fails to take into consideration relevant factors as are germane to arrive at an informed decision on the question of grant of maintenance in a proceeding under Section 125 of Cr.P.C.

Learned counsel for the respondent-wife and the minor children has strongly opposed the prayer. It is submitted that the respondent-wife had made a claim for maintenance at the rate of Rs.30,000/- per month and at the

rate of Rs.10,000/- each for the two children. In the present day state of rising cost of living index, a paltry sum of Rs.2,000/- awarded in favour of each of the claimants is hardly unreasonable when the learned Family Court has clearly held that the petitioner-husband could well earn at least Rs.12,500/- per month even if he is treated as a skilled worker. 4(Four) witnesses were examined on part of the petitioner-wife whereas the opposite party had examined 3(three) witnesses including himself. There are enough materials placed before the learned Family Court to come to the considered finding that the maintenance amount of Rs.2,000/- each in favour of the claimant-wife and minor children are proper in the eye of law and not exorbitant. As such, no interference may be called for. It is also submitted that the wife has instituted a case under Domestic Violence Act on allegations of torture and domestic violence by the petitioner-husband.

Learned counsel for the petitioner has in reply submitted that the respondent-wife has left the matrimonial home along with the minor children and has lodged false cases with an intention of harass him. Petitioner is willing to take her back in the matrimonial home. As such, the conduct of the respondent-wife to stay away is not justified and should not have been a basis to award maintenance.

On consideration of rival submissions of learned counsel for the parties and after going through the records and on perusal of the impugned

order, this Court finds that the learned Family Court has after consideration of the materials adduced during the proceedings come to a conclusion that the income of the opposite party can be calculated up to Rs.12,500/- per month treating him to be a skilled labourer who generally earns Rs.500/- per day and gets at least 25 days of work in a month. However, it further appears that the learned Family Court has not taken into account that the petitioner-husband has to maintain a minor child and as such, the amount left after the award of maintenance may not suffice the expenses for maintaining the minor child and himself. In such circumstances, this Court is of the considered view that interest of justice would be met by reducing the maintenance amount to Rs.5,000/- in the proportion of Rs.3,000/- for the wife and Rs.1,000/- each to the minor children to be paid in similar manner as directed by the learned Family Court in the impugned order.

With the aforesaid modification in the impugned order dated 14.09.2022 passed by the learned Family Court, Kailashahar, Unakoti Tripura in CrI Misc(125) 75 of 2021, the instant revision petition is disposed of. Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ