

**HIGH COURT OF TRIPURA
AGARTALA**

Crl.Rev.P. No.45 of 2023

Smt. Usha Gupta

.....Petitioner(s);

Versus

Sri Bhupesh Chandra Gupta

.....Respondent(s)

For Petitioner(s) : Mr. D.C. Roy, Advocate.

For Respondent(s) : Mr. S. Talapatra, Advocate,
Mr. Samar Das, Advocate.

Crl.Rev.P. No.49 of 2023

Sri Bhupesh Chandra Gupta

.....Petitioner(s);

Versus

Smt. Usha Gupta

.....Respondent(s)

For Petitioner(s) : Mr. S. Talapatra, Advocate,
Mr. Samar Das, Advocate.

For Respondent(s) : Mr. D.C. Roy, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

13/10/2023

Heard learned counsel for both the parties.

2. Both the revision petitions are directed against the common impugned judgment dated 06.06.2023 passed by learned Judge, Family Court, Agartala, West Tripura In Crl. Misc. No.211 of 2020 instituted by the wife for maintenance under Section 125 of the Code of Criminal Procedure, 1973.

3. The wife is the petitioner in Crl.Rev.P. No.45/2023 being aggrieved by the quantum of maintenance of Rs.4,000/- per month plus Rs.2,000/- per month, which are the installments of arrears totaling Rs.1,40,000/- from the date of application i.e. 18.07.2020 payable in the Savings Bank Account of the petitioner-wife.

Petitioner in Crl.Rev.P. No.49/2023 is the husband aggrieved by the award of maintenance @ Rs.4,000/- per month.

4. Parties have been married since 1988. Both the son and the daughter born out of the marriage are major, and are living independently. The petitioner-wife has alleged extra marital relationship against her husband. She has also instituted a CR(Misc.) No.40/2020, which is pending, alleging torture and assault by the husband. Respondent-husband has alleged that she is living separately without any sufficient cause.

5. Respondent-husband is a government employee posted in the Revenue Section in the office of the District Magistrate & Collector, West Tripura, Agartala. He has taken a plea that he had purchased several lands out of loan which has created a liability of about Rs.20 lakhs. The value of the property is obviously about Rs.20 lakhs. Therefore, out of his meager salary of Rs.38,000/- as a Group-D employee, he will not be able to meet the quantum of maintenance awarded by the learned Trial Court. Both the parties have filed their statement of assets and liabilities in terms of the judgment dated 04.11.2020 of the Apex Court in the case of **Rajnesh v. Neha and another** reported in **(2021) 2 SCC 324**.

6. I have considered the rival submission of the parties, gone through the impugned judgment and also the pleadings placed from record. It appears from the discussion made by the learned Family Court, Agartala in the impugned judgment that the relevant factors for determination i.e. Point No. I, II & III have been duly dealt with and addressed after going through the three plaintiff witnesses adduced by the wife and the documents submitted by her; as

also the three witnesses adduced by the husband and the exhibits such as original salary certificate, sanction letter of housing loans, Account Statement showing deductions of EMI and also the certified copies of the complaint report. The points for determination framed by learned Family court are reproduced hereunder :

- I. Whether the petitioner is the legally married wife of the OP?*
- II. Whether the OP-husband having sufficient means neglects or refuses to maintain the petitioner?*
- III. Whether the petitioner is entitled to maintenance from the OP and if so, up to what extent?"*

The learned Family Court has held that the marriage is not disputed by either of the parties and further corroborated by the witnesses adduced by them. Therefore, that fact need not be proved. So far as Points No.2 & 3 are concerned, they have been dealt with together. The learned Trial Court has also taken into note that while the income of the petitioner as maid servant is fluctuating and it shall decrease when she is growing older, the OP has a steady income which will increase with the passage of time till his retirement. The meager income of the petitioner was, therefore, not sufficient for maintenance of her livelihood. Husband owes a responsibility to maintain his wife to prevent her from destitution. Taking into account the salary certificate submitted by the husband which shows that he is a government employee serving in a Group-D post as Peon with a gross salary of Rs.37,287/- and net Rs.26,889/- after deductions, in the month of February, 2022 coupled with certain increments and Dearness Allowance which may considerably increase over a period of time, it has held that the husband is liable to pay maintenance @ Rs.4,000/- per month. It is pointed out by learned counsel for the respondent-husband that the petitioner-wife has, in her cross examination,

admitted that she earns Rs.10,000/- approximately by working as domestic help in various houses.

Learned Trial Court has also held that the plea regarding the liability, incurred on account of loan for purchase of immovable property by the husband, cannot be at the cost of maintaining the wife, which is the obligation of the husband. Addition of personal assets by taking loan would not excuse the husband from providing maintenance to the petitioner-wife at this old age.

7. Upon consideration of the submission of learned counsel for the parties and the materials placed from the records, this Court is of the view that the findings of learned Family court on the Points No.2 and 3 have been arrived at after due appreciation of the materials and evidence on record adduced by the parties and it does not suffer from any perversity, irregularity or impropriety which warrants interference by this Court in revisional jurisdiction. However, this Court is of the view that the quantum of maintenance of Rs.4,000/- awarded in favour of the petitioner-wife should be increased to Rs.5,500/- per month, taking into consideration that the income of the wife as a maid servant is bound to decrease with growing age which the learned Family Court has also taken into account, while the husband's net salary is Rs.26,889/- per month which is bound to increase with pay revisions, increments and Dearness Allowance from time to time. The arrears to be paid are to be recomputed on the basis of the enhanced monthly maintenance as directed above and divided in equal instalments of Rs.2,750/- per month instead of Rs.2,000/- and are to be paid along with the monthly maintenance of Rs.5,500/- per month till the arrears are fully paid.

8. As such, with the aforesaid modification, the instant criminal revision petition No.45 of 2023 is disposed of.

9. However, this Court does not find any ground to interfere in the impugned order at the behest of the husband so far as Criminal Revision Petition No.49/2023 is concerned. The same is accordingly dismissed.

10. Pending application(s), if any, shall stand disposed of.

(APARESH KUMAR SINGH), CJ



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PULAK BANIK Date: 2023.10.16
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