

**HIGH COURT OF TRIPURA
AGARTALA
Crl.Rev.P.No.52 of 2022**

Sri Rajat Roy

.....Petitioner(s)

Versus

Smt. Rinki Debnath and Another

.....Respondent(s)

For Petitioner(s)	:	Mr. R. Datta, Adv.
For Respondent(s)	:	Mr. S. Ghosh, Addl. P.P. Mr. S. Das, Adv.
Date of hearing and Judgment & Order	:	18.01.2023

HON'BLE THE CHIEF JUSTICE (ACTING)

Judgment & Order(Oral)

Heard Mr. R. Datta, learned counsel appearing for the petitioner as well as Mr. S. Das, learned counsel appearing for the respondent No.1 and Mr. S. Ghosh, learned Addl. P.P. appearing for the State.

2. This is a petition filed under Section 397 of the Cr.P.C. for setting aside the judgment and order dated 13.07.2022 passed by the Judge, Family Court, Agartala, West Tripura in Case No.Crl.Misc.485 of 2021 directing the petitioner to pay maintenance amounting to Rs.4000/- per month to the respondent No.1.

3. The respondent No.1 filed an application vide Case No.Crl.Misc.485 of 2021 under Section 125 of the Cr.P.C. for granting maintenance of Rs.20,000/- per month from the petitioner before the Judge,

Family Court, Agartala, West Tripura. The respondent No.1 stated in her application that the marriage between the petitioner and the respondent was solemnized on 05.03.2021 and since 22.05.2021, the respondent No.1 has been living separately from the petitioner and the petitioner did not pay maintenance to her. The respondent wife had prayed for grant of maintenance to her. The respondent wife had prayed for grant of maintenance amounting to Rs.20,000/- per month. After receipt of the notice, the petitioner husband appeared before the Judge, Family Court, Agartala, West Tripura but he was not given reasonable opportunity to file his written objection against the application filed under Section 125 of the Cr.P.C.

4. During the trial of CrI.Misc.485 of 2021, the respondent No.1 examined three witnesses including herself and the petitioner husband also examined three witnesses including herself.

5. After hearing both the parties the court below allowed the application of the respondent No.1 with an observation that the respondent wife is entitled to get maintenance allowance amounting to Rs.4000/- per month.

Aggrieved thereby, this criminal revision petition has been filed.

6. Mr. R. Datta, learned counsel appearing for the petitioner husband has submitted that the court below did not provide any reasonable opportunity to the petitioner husband to submit his written objection against the application filed under Section 125 of the Cr.P.C. Moreover, he has submitted that the respondent wife in her cross examination has submitted that she is running a Nursery School namely Bidyarthi Sishu Niketan. According to

Mr. Datta, learned counsel, the court below has failed to consider that in the said nursery school more than 100 students are enrolled and from which she earns more than Rs.50,000/- per month.

7. Mr. Datta, learned counsel has further submitted that the court below without any basis has assessed the income of the petitioner husband at Rs.15,000/- per month but fact remains that the petitioner husband works as a HDFC Insurance Agent and earns only Rs.5000/- per month as commission. Moreover, he has submitted that the court below ought to have rejected the application of the respondent wife as she did not file any affidavit of disclosure of Assets and Liabilities. According to Mr. Datta, learned counsel the court below though noted that the actual income of the petitioner husband has not come out from the evidence on record but allowed a sum of Rs.4000/- per month as maintenance on guess work which is erroneous and contrary to law.

8. Having heard the counsel for the parties, this court does not find sufficient ground to consider the case of the petitioner as the petitioner in support of his contention against his wife has not place any evidence on record. The order passed by the court below suffers no infirmities. Prima facie this court is not convinced with the arguments of the petitioner.

In the result, this petition stands dismissed.

Pending application/s, if any, also stands dismissed.

CHIEF JUSTICE(ACTING)