

GAHC010055132023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : CRP(IO)/72/2023

GOPAL SARKAR
S/O- SRI BRINDABAN SARKAR,
R/O- AHIYABARI,
P.O.- LATIBARI, MOUZA- DEFELI,
P.S.- TAMULPUR, DISTRICT- BAKSA (BTR), ASSAM.
PIN- 781368.

VERSUS

KANCHAN BISWAS SARKAR
W/O- SRI GOPAL SARKAR,
D/O- SRI SRIDAM BISWAS,
R/O- THENGBHANGA,
P.O.- BARPAK, MOUZA- MAYANG,
P.S.- MAYANG, DISTRICT- MORIGAON (ASSAM),
PIN- 782411.

Advocate for the Petitioner : MR. B CHOWDHURY

Advocate for the Respondent : MR. A ROSHID

**BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA**

ORDER

Date : 15-11-2023

Heard Mr. B. Choudhury, learned counsel for the petitioner husband. Also heard Mr. A Roshid, learned counsel for the respondent husband.

2. The respondent wife instituted a domestic violence case being Case No. CR (DV) No. 24/2021 in the Court of the Additional Chief Judicial Magistrate, Morigaon wherein there is a direction to pay the maintenance of Rs.7000/- (Rupees Seven Thousand) per month. The divorce suit has been instituted by the petitioner husband in the Court of learned District Judge, Bongaigaon *inasmuch* as the petitioner husband resides in Baksa whereas the respondent wife resides in Morigaon. In the divorce proceeding, an application had been filed by the respondent wife under Section 24 of the *Hindu Marriage Act, 1955* claiming maintenance and cost of the proceeding which was registered as Misc. (J) Case No. 08/2022 wherein an order dated 09.01.2023 was passed requiring the petitioner husband to pay an amount of Rs.20,000/- (Rupees Twenty Thousand) as litigation cost to attend the divorce proceeding at Baksa and the further maintenance of Rs.8000/- (Rupees Eight Thousand) in addition to Rs.7000/- (Rupees Seven Thousand) already ordered to be paid for maintenance of the respondent wife and the minor daughter including her educational expenses.

3. Being aggrieved by the order dated 09.01.2023, this present revision petition is instituted wherein there is an interim order dated 17.03.2023 by which the order dated 09.01.2023 in Misc (J) Case No. 08/2022 has been stayed. The respondent wife institutes the present I.A. (Civil)/1770/2023 for

vacating the interim order dated 17.03.2023.

4. Mr. B. Choudhury, counsel for the petitioner husband takes the stand that the petitioner is a school teacher and he gets a monthly salary of Rs.35,000/- (Rupees Thirty Five) per month, out of which he is required maintain his two aged parents and therefore, according to the petitioner husband the amount of Rs.7000/- (Rupees Seven Thousand) for the wife and the minor child would be sufficient. Even if we take a proportionate amount of salary of Rs.35,000/- (Rupees Thirty Five Thousand) for five persons being the petitioner himself, the two aged parents, the wife and the minor child still the share per person would come to Rs.7000/- (Rupees Seven Thousand) meaning thereby for the wife and child it would come to Rs.14,000/- (Rupees Fourteen Thousand).

5. If Rs.7000/- (Rupees Seven Thousand) per month plus additional maintenance of Rs.8000/- (Rupees Eight Thousand) is granted against the petitioner, the same does not appear to be disproportionate or illegal in any manner.

6. Mr. B. Choudhury, learned counsel for the petitioner husband states that the respondent wife had left his company on her own volition without any acceptable reason and on the other hand, Mr. A. Roshid, learned counsel for the respondent wife states that she is willing to go back to the petitioner husband and continue with their marital life.

7. In view of the statement of the respondent wife, we are of the view that it would be for the interest of both the parties if the respondent wife goes back and continues her marital life with the petitioner husband. Accordingly, as per the statement of the respondent wife before the Court, she is required to go back and stay with the petitioner wife. As a conclusion had already been arrived

that the maintenance of Rs.7000/- (Rupees Seven Thousand) plus the additional Rs.8000/- (Rupees Eight Thousand) would not be highly disproportionate considering the salary of the petitioner husband, we see no merit in this revision petition.

8. Accordingly, the same stands dismissed. But however, as agreed before the Court, if the respondent wife goes back to the petitioner husband and continues with the martial life, the additional maintenance of Rs.8000/- (Rupees Eight Thousand) shall not be required to be paid by the petitioner husband. As regards the maintenance of Rs.7000/- (Rupees Seven Thousand) per month already ordered in the D.V. matter, we leave it to the parties. In the event the respondent wife agrees and goes back to the petitioner husband but if it is he who is not willing to take her back, the maintenance of Rs.8000/- (Rupees Eight Thousand) shall be continued.

9. The interim order date 17.03.2023 stands vacated.

Civil Revision Petition stands disposed of in the above terms.

JUDGE

Comparing Assistant