

GAHC010099812023



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

Case No. : CRP(IO)/137/2023

DALIA ADHIKARI
WIFE OF SRI KINGSHUK ADHIKARI,
DAUGHTER OF LATE JYOTIRMOY BISWAS,
A RESIDENT OF GANDHI NAGAR ROAD,
ITKHOLA, SILCHAR,
P.O.- SILCHAR, P.S SILCHAR,
PIN- 788001,
DISTRICT- CACHAR, ASSAM.

VERSUS

KINGSHUK ADHIKARI
S/O- SRI KRISHNA GOPAL ADHIKARI,
A RESIDENT OF LANE NO. 3, LINK ROAD,
P.O.- SILCHAR, P.S.- SILCHAR,
DISTRICT- CACHAR, ASSAM,
PIN- 788006.

Advocate for the Petitioner : MR. S D PURKAYASTHA

Advocate for the Respondent : MR. S K GHOSH

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 28-06-2023

Heard Mr. S. D. Purkayastha, learned counsel for the petitioner. Also heard Mr. S. K. Ghosh, learned counsel for the respondent.

2. This is an application filed under Article 227 of the Constitution of India challenging the order dated 03.02.2023, which was passed by the learned Principal Judge, Family Court, Cachar, Silchar in F.C. (Civil) Case No. 88/2018, by rejecting the prayer of the respondent/present petitioner/wife.

3. A brief fact of the case is that, the petitioner and the respondent are wife and husband respectively. Their marriage was solemnized on 06.02.2007, and one female child is born out of their wedlock on 25.10.2007. The petitioner stated that the respondent/husband filed the F.C.(Civil) Case No.88/2018 against the present petitioner praying for a decree for divorce under Section 13 of the Hindu Marriage Act, 1955. Thereafter, the present petitioner submitted her written statement, where it was specifically stated that during the period 17.07.2007 to 24.03.2008, the entire transaction through her ATM card was operated by the respondent/husband, and which would be evident from the ATM Track record lying with concerned ATM of different Banks, and the same would be produced later on. From the account/saving passbook of the present petitioner, it appears an amount of Rs.1,82,900/-(Rupees one lakh eighty-two thousand nine hundred) only was withdrawn by ATM transactions during the period 17.07.2007 to 24.03.2008.

4. Therefore, during the stage of cross examination of the PWs, the present petitioner herein filed an application praying for to call for;

I) Entire records of S.B.I A/c No.11033204325 for the period 01.12.2006 to 24.03.2008 standing in the name of the present petitioner from the custody of State Bank of India, Park Road Branch, Silchar.

II. Video Footage of monetary transaction though ATM Card of the present petitioner for the period 17.07.2007 to 24.03.2008 from the same SBI Branch.

5. As per, vide order dated 03.02.2023 in F.C.(Civil) Case No.88/2023, the learned Principal Judge, Family Court, Cachar, Silchar, had partly allowed the prayer made by the present petitioner by allowing to call for the account's statements for the period 01.12.2006 to 24.03.2008, however, rejected the prayer for calling for the Video Footage of monetary transactions.

6. The present petitioner came to know about the said order only on 29.03.2023, and thereafter, consulting her Amicus Curiae, she filed this revision petition praying for setting aside the impugned order dated 03.02.2023, which was passed by the learned Principal Judge, Family Court, Cachar, Silchar in F.C. (Civil) Case No. 88/2018, so far it relates to rejecting the prayer of the present petitioner to call for Video Footage of the monetary transactions made by her ATM Card during the period 17.07.2007 to 24.03.2008.

7. It is further submitted by the learned counsel for the petitioner that by forming the opinion about its lifespan was not reasonable to reject the prayer without calling the Video Footage from the Bank. Thus, being highly aggrieved and dissatisfied by the impugned order dated 03.02.2023, passed by the

learned Trial Court, the present petitioner filed this revision petition.

8. In this context, Mr. S. K. Ghosh, learned counsel for the respondent has submitted that the divorce petition has been filed only on the ground of desertion, and the production of the Video Footage will not serve any purpose. More so, the Video Footage, which was called for the period 17.07.2007 to 24.03.2008, is not at all possible to store/reserve such records till date. Accordingly, the learned counsel for the respondent has submitted that the learned Trial Court had rightly passed the impugned order. Hence, the interference of this Court is not at all necessary here in this case.

9. Considering the submissions made by the learned counsels of both sides and also perusing the documents placed on records, it is found that, it's a divorce case based on desertion, which is pending before the learned Principal Judge, Family Court, Cachar, Silchar. In this connection, the present petitioner/wife had submitted a written statement, where, it has been stated that the respondent/husband withdrew the money from her accounts'/passbook, and accordingly, the said Court had allowed to collect the entire records of S.B.I Account for the period 01.12.2006 to 24.03.2008, within which period, the respondent/husband had withdrawn money by using her debit card on several transactions. However, another prayer for calling the Video Footage of monetary transaction through the ATM card was rejected, on the ground that the records of monetary transaction in Video Footage will remain intact only for 90 days, thereafter, the same become vanished.

10. Thus, in the instant case, it seems that the present petitioner had sought for the Video Footage of monetary transaction from the year 2007 to 2008,

which is technically not possible. Hence, I find that there is no illegality or irregularity committed on the part of the learned Trial Court by rejecting the prayer calling for the Video Footage for the period 17.07.2007 to 24.03.2008. Further, it is also observed that the prayer for calling the statement of S.B.I Accounts of the present petitioner for the period of 01.12.2006 to 24.03.2008 has already been allowed by the said Court, which will serve the purpose and also help in proving the transaction made from the account of the petitioner.

11. Resultantly, the ground of filing the revision petition by the present petitioner is not acceptable, as the learned Court had rightly passed the impugned order dated 03.02.2023, wherein, it has been clearly stated that the records of such a longer duration cannot be store till date, and thus, interference of this Court is not at all necessary here in this case. Consequently, this revision stands dismissed.

12. There shall be no order as to cost.

JUDGE

Comparing Assistant