

GAHC010114062018



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

Case No. : Crl.Rev.P./186/2018

MRINAL CHANDRA BHUYAN
SON OF LATE PASUPATI BHUYAN, RESIDENT OF VILLAGE DABORSUPA,
SARTHEBARI, DISTRICT- BARPETA, ASSAM, PIN- 781307

VERSUS

ANJALI CHOUDHURY BHUYAN
WIFE OF SRI MRINAL CHANDRA BHUYAN, RESIDENT OF LAKHINAGAR,
ZOO ROAD, HOUSE NO. 18, P.O. AND P.S. DISPUR, GUWAHATI-05,
DISTRICT- KAMRUP, ASSAM.

Advocate for the Petitioner : MR. S K GOSWAMI

Advocate for the Respondent : MR. K D CHETRI

:: PRESENT ::

HON'BLE MR. JUSTICE PARTHIV JYOTISAIKIA

For the Petitioner : Mr. S. K. Goswami,
Advocate.

For the Respondent : Mr. K. D. Chetri,
Advocate.

Date of Hearing : 24.01.2023.

Date of Judgment : 27.01.2023.

JUDGMENT AND ORDER (CAV)

Heard Mr. S. K. Goswami, learned counsel appearing for the petitioner. Also heard Mr. K.D. Chetri, the learned counsel representing the respondent.

2. This is an application under Section 397 and 401 of the Criminal Procedure Code whereby the judgment and order dated 02.04.2018 passed by the learned Principal Judge, Family Court No.1 at Guwahati in F.C. Case No.457/2016 is put to challenge.

3. The case of the petitioner in a nutshell is like this—the petitioner is about 64 years now. He retired from Food Corporation of India on 28.02.2014 and he gets a pension of Rs.1,247/- per month.

4. The petitioner has three sons and all of them are busy in their own professions.

5. The wife of the petitioner died. Thereafter, the petitioner had an agreement with the respondent that she would look after his family and both of them would live together.

6. The petitioner has been suffering from many ailments. He also had a cerebral stroke. The respondent found it difficult to properly take care of the problems of the petitioner. Ultimately, she left the house of the petitioner.

7. She filed a complaint before police praying for recovery of her Streedhan. In the meantime, she also opened a shop at Guwahati and thereafter, she filed a case under Section 125 of the CrPC against the

petitioner in the Family Court No.1 at Guwahati. The case is numbered as FC (Crl) Case No. 457/2016. The petitioner contested this case. Initially, the Family Court passed an order, directing the petitioner to pay monthly maintenance of Rs.800/-. After a full hearing, ultimately, the Family Court directed the petitioner to pay monthly maintenance of Rs.2,500/- to the respondent.

8. Being aggrieved by the aforesaid order, the petitioner filed this revision petition. The primary ground taken by the petitioner is that he gets a monthly pension of Rs.1,247/- only and, therefore, he is not able to pay Rs.2,500/- per month to the respondent.

9. I have considered the submissions made by the learned counsels of both sides.

10. There is evidence in this case that on 13.11.2009, the petitioner married the respondent in a social function and after about 6 months of marriage, the petitioner started to physically harass the respondent. The petitioner owns a Swift Dzire car also.

11. The provision of law as contained in Section 125 of the CrPC, is meant to protect women, children and parents who are unable to maintain themselves. This is a social legislation meant to prevent vagrancy. In these days, Rs.2,500/- is not an enormous amount. A husband is bound to maintain his wife. In that case, all his excuses is a nullity.

12. The power under Section 397 and 401 of the Code of Criminal Procedure, is a supervisory power of the High Court. I do not find anything wrong in the order of the Principal Judge, Family Court No.1, Guwahati.

The court below has rightly appreciated the evidence and arrived at a correct finding.

13. For the aforesaid reasons, I find this revision petition to be devoid of merit and hence dismissed accordingly.

JUDGE

Comparing Assistant