

GAHC010152312022



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

Case No. : Crl.Rev.P./404/2022

NAMRA NILLOVE DEKA
S/O SRI NABIN CHANDRA DEKA
R/O HOUSE NO. 1
OP. BAGHOR BARI HIGH SCHOOL,
NAMGHAR PATH,
P.O. PANJBARI PATH,
P.O. PANJABARI, P.S. KHANAPARA, GUWAHATI -781037
DIST. KAMRUP (METRO), ASSAM

VERSUS

SMT. ANULEKHA HAZARIKA
D/O SRI BISWAJIT HAZARIKA
R/O VILL- INDIRA NAGAR
NEAR F.C.I. WAREHOUSE
P.O AND P.S. TEZPUR
DIST. SONITPUR, ASSAM

Advocate for the Petitioner : MR. K N CHOUDHURY

Advocate for the Respondent : MR. A K BHUYAN

:: PRESENT ::

HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

For the Petitioner: Mr. K.N. Choudhury,
Senior Advocate.

For the Respondent: Mr. A.K. Bhuyan,
Advocate.

Date of Hearing: 19.05.2023.

Date of Judgment: 30.05.2023.

JUDGMENT AND ORDER (CAV)

Heard Mr. K.N. Choudhury, learned senior counsel appearing for the petitioner. Also heard Mr. A.K. Bhuyan, the learned counsel representing the sole respondent.

2. This is an application under Section 397 read with Section 401 of the Criminal Procedure Code against the judgment and order dated 07.07.2022 passed by the learned Sessions Judge, Sonitpur, Tezpur in Criminal Appeal No.5 (S-1)/2022 affirming the interim order dated 05.03.2022 passed by the learned Judicial Magistrate 1st Class, Tezpur in C.R. Case No.223 of 2021 directing the petitioner to pay an amount of ₹35,000/- as monthly maintenance and ₹15,000/- for alternative accommodation to the respondent.

3. The factual matrix leading to filing of this revision petition lies within a short campus.

4. The petitioner earns about ₹38,13,873/- per annum. He pays income tax of ₹12,000,00/-. The petitioner has some other assets also for which, he

pays income tax of ₹26,000,00/-.

5. As an interim measure, the petitioner was directed to pay an amount of ₹35,000/- as monthly maintenance and ₹15,000/- for alternative accommodation to the respondent.

6. Being aggrieved by the amount of interim maintenance, the present revision petition has been filed.

7. Mr. Choudhury has submitted that the respondent is a qualified person and used to work at one point of time where she earned more than ₹40,000/- per month.

8. Mr. Chaudhury has relied upon a decision of the Madhya Pradesh High Court in *Smt. Mamta Jaiswal vs Rajesh Jaiswal*, reported in 2000 SCC Online MP 580. Para 8 of the said decision reads as under –

“8. In fact, well qualified spouses desirous of remaining idle, not making efforts for the purpose of finding out a source of livelihood, have to be discouraged, if the society wants to progress. The spouses who are quarrelling and coming to the Court in respect of matrimonial disputes, have to be guided for the purpose of amicable settlement as early as possible and, therefore, grant of luxurious, excessive facilities by way of pendente lite alimony and extra expenditure has to be discouraged. Even then, if the spouses do not think of amicable settlement, the Matrimonial Courts should dispose of the matrimonial petitions as early as possible. The Matrimonial Courts have to keep it in mind that the quarrels between the spouses create dangerous impact on minds of their offsprings of such wedlocks. The offsprings do not understand as to where they should see? Towards father or towards mother? By seeing them both fighting, making allegations against each other, they get bewildered. Such bewilderedness and loss of affection of parents is likely to create a trauma on

their minds and brains. This frustration amongst children of tender ages is likely to create complications which would ruin their future. They cannot be exposed to such danger on account of such fighting parents."

9. Mr. Bhuyan, on the other hand, submits that the learned court below has followed the judgment of the Supreme Court that was delivered in *Rajnish v. Neha and Anr.*, reported in (2021) 2 SCC 324 while assessing the interim maintenance and therefore, the said order does not require any interference of this Court.

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

11. The learned trial court below has followed the decision of the Supreme Court that was delivered in *Rajnish* (supra) while assessing the interim maintenance. Considering the admitted income of the petitioner, I find that the trial court has rightly appreciated and assessed the interim maintenance.

12. This Court is of the opinion that the interim maintenance granted by the court below is not exorbitant. Considering the income of the petitioner, it is a reasonable amount.

13. Under the circumstance, I do not find any reason to interfere with the impugned order. The revision petition is found to be devoid of merit and stands dismissed accordingly.

JUDGE

Comparing Assistant