

**HIGH COURT OF TRIPURA
AGARTALA**

Crl. Rev.P.3 of 2024

Shri Nitai Bhowmik

.....**Petitioner(s)**

Versus

Smt. Tipati Paul

.....**Respondent(s)**

For Petitioner(s) : Ms. A. Debbarma, Advocate.

For Respondent(s) : Mr. Biplab Debnath, Advocate.

Date of hearing & delivery
of judgment and order : 04.07.224

Whether fit for reporting : Yes/No.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

JUDGMENT & ORDER (ORAL)

Heard Ms. A. Debbarma, learned counsel for the petitioner. Also heard Mr. Biplab Debnath, learned counsel for the respondent.

[2] This criminal revision petition is filed under Section 19(4) of the Family Courts Act, 1984 read with Section 397/401 of Cr.P.C against the judgment dated 25.07.2023 passed by learned Judge, Family Court, Agartala, West Tripura in Crl. Misc. 489 of 2021 under Section 125 of the Cr.P.C. by granting maintenance @ Rs.5,000/- per month to the wife (respondent herein) w.e.f. 10.08.2021 i.e. from the date of application for maintenance.

[3] The impugned order dated 25.07.2023 passed by the learned Court below in case No. Crl.Misc.489 of 2021 reads as under:

"O R D E R

23. In the result, **Rs. 5,000/- (five thousand)** per month is fixed as monthly maintenance for the petitioner w.e.f, 10-08-2021 (date of filing) and the OP is directed to deposit the same to the Savings Bank Account of the petitioner, Smt Tipati Paul of by sending the same by Money Order payable within 10th day of every English Calendar month. Remittance charges, if any, shall be borne by the OP. OP is further directed to clear up the arrear maintenance from 10-08-2021. OP has to pay the arrear maintenance of **Rs.1,20,000/-** (One lakh twenty thousand) only [@ Rs.5,000/- X 24 months = Rs.1,20,000/- from Aug, 2021 to July, 2023] within 6(six) months from today.

As per Sec.125(2) Cr.P.C., and also as per decision of our Hon'ble Supreme Court in case between Rajnesh Vs. Neha, maintenance is to be paid by husband-OP from the date of institution of the case. As the petitioner is not awarded interim maintenance, hence I have awarded the monthly maintenance in the instant case effecting from the date of filing of the case.

24. The case is disposed of on contest.

25. Supply copy of the judgment free of cost to both the parties....."

[4] Aggrieved by the aforesaid order impugned passed by the learned Court below, the petitioner has preferred this petition seeking following reliefs:

"i) Admit the instant petition filed U/S 19(4) of the Family Court's Act, read with Section 397/401 of CrPC against the Judgment, dated, 25.07.2023, passed by the Family Court, Agartala, West Tripura, in Crl. Misc 489/2021.

ii) Issue notice upon the Respondent

iii) Hear the both sides.

iv) Allow the instant Criminal Revision Petition by setting aside/quashing the Judgment, dated, 25.07.2023, passed by the Family Court, Agartala, West Tripura, in Crl. Misc 489/2021.

v) Call for records....."

[5] Ms. A. Debbarma, learned counsel for the petitioner husband contends that the order passed by the learned Court below is not sustainable in the eye of law and the findings of the learned Court below is perverse. She further submits that the learned Court below failed to appreciate that without any reasonable cause, the respondent has withdrawn herself from the matrimonial home and deserted the petitioner husband. According to the learned counsel, learned Court below did not apply its judicious mind in determining the maintenance @Rs.5000/- per month to the wife because the monthly income of the petitioner is very meager. She, therefore, urges this Court to set aside the impugned judgment passed by the learned Court below.

[6] On the other hand, Mr. B. Debnath learned counsel for the respondent wife opposes the submission made by the learned counsel for the petitioner contending that there is no infirmity in the aforesaid order passed by the learned

Court below. He, therefore, submits that the instant criminal revision petition filed by the petitioner is liable to be dismissed.

[7] Heard the submissions made by the learned counsel for the parties. Perused the record.

[8] This Court examined both parties and also the Bank Manager of the bank in which, the petitioner husband is working. The Bank Manager informed this Court that petitioner is working as contract labor for Rs.2,000/- per week with the bank and it is engaging his services for two weeks in a month and paying Rs.4,000/- per month. Further, there is no evidence placed on record by any person to show that the petitioner is earning more than the above.

[9] Having considered the facts and circumstances of the case, this Court is of the view that ends of justice would be met if the monthly maintenance assessed by the Court below to the respondent wife be reduced to Rs.2,000/- per month instead of Rs.5,000/- per month and accordingly, the same is ordered. Petitioner is directed to pay all the arrears, if any, to the respondent wife within a period of 06(six) months with six equal installments from the date of filing of the application of maintenance @ Rs.2,000/- per month. All the payments regarding monthly maintenance/arrears shall be paid within 10th day of every English calendar month.

Thus, this criminal revision petition is allowed to the extent as indicated above and accordingly, the same is disposed of. Personal appearance of the parties to this Court is hereby dispensed with.

As a sequel, miscellaneous application(s), pending if any, shall also stand closed.

JUDGE

Sabyasachi. G.

SABYASACHI
GHOSH

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