

**HIGH COURT OF TRIPURA
AGARTALA**

Crl. Rev.P.26 of 2024

Chandan Chakraborty

..... Petitioner(s)

Versus

Miss Hridhy Chakraborty and others

..... Respondent(s)

For Petitioner(s) : Mr. Rishiraj Nath, Advocate.

For Respondent(s) : Mr. Raju Datta, PP.
Mr. Alik Das, Advocate.
Ms. M. Roy, Advocate.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

ORDER

10.07.2024

Heard Mr. Rishiraj Nath, learned counsel for the petitioner. Also heard Mr. A. Das, learned counsel and Ms. M. Roy, learned counsel for the private respondents. Mr. R. Datta, learned PP is present on behalf of the State respondent.

[2] This petitioner is filed under Section 397 of Cr.PC read with Section 401 of Cr.PC against an order dated 02.02.2024 vide Cr.Misc.(Interim) 17 of 2023 arising out of Cr. Misc.55 of 2023 passed by the learned Judge, Family Court Udaipur, Gomati, Tripura seeking following reliefs:

- "i. Pass an order hereby calling for the relevant records pertaining to the case.
- ii. Pass an order hereby setting aside the order dated 02.02.2024 passed by the Ld. Judge, Family Court, Udaipur, Gomati vide Cr. Misc. 17 of 2023.
- iii. Any other order that Your Honour deems fit and proper....."

[3] The brief facts of the case as contended in the instant petition are that the petitioner and the respondent wife were married on 13.05.2007 and subsequently, two issues were born out of the said wed lock. Due to irrevocable differences, a mutual divorce was ultimately preferred by both the parties resulting in a decree of divorce having been passed by the learned Judge, Family Court, Udaipur, Gomati in Title Suit (Divorce) 39 of 2022 on 25th April, 2023 wherein both the parties agreed to amicably part their ways with settlement. It was settled there that the respondent-wife would not claim any maintenance from the husband-petitioner for herself and the issues owing to the fact that the respondent herself is competent and capable enough to take care for her own self and the minor daughters. But, subsequently, claim for maintenance was preferred by the representing respondent and an order for interim maintenance was passed on 02.02.2024 in Cr. Misc. (Int.) 17 of 2024 by the learned Judge, Family Court, Udaipur, Gomati. Aggrieved by the said order, this Criminal Revision Petition has been preferred.

[4] Mr. R. Nath, learned counsel for the petitioner submits that the impugned order passed by the learned Court below is erroneous, illegal and the same was passed ignoring certain factual issues. He submits that while passing the order, learned Court below failed to observe that the petitioner and the representing guardian i.e. the former wife of the petitioner had obtained a decree of divorce under mutual consent vide judgment dated 25.04.2023 by the learned Judge, Family Court, Udaipur, Gomati Tripura. Learned counsel, therefore, urges this court to set aside the impugned order dated 02.02.2024 passed by the Court below.

[5] On the other hand, learned counsel appearing for the private respondents opposes the submission made by the learned counsel for the petitioner and submit that there is no infirmity in the order passed by the learned Court below. Therefore, they urge this Court to dismiss the instant petition.

[6] For appreciation of facts, the relevant portion of the order dated 25.04.2023 in Title Suit (Divorce) 39 of 2022 of the Court below is quoted hereunder:

".....3. Both the petitioners submitted their respective examination-in-chief in affidavits submitting that the wife-petitioner is capable of maintaining herself and her two daughters and at her own wish the wife-petitioner relinquishes right of maintenance for herself and her two daughters from the husband-petitioner. The wife-petitioner received 'Stridhan' from the husband-petitioner. The two daughters of the petitioners will stay under the care and supervision of the wife-petitioner and for that the husband-petitioner will not raise objection in any manner in future. Further, the husband-petitioner will visit the house of the wife-petitioner once in a month to see his daughters. The wife-petitioner shall not claim any maintenance from the husband-petitioner. Accordingly, both the petitioners prayed to pass decree of divorce on mutual consent....."

[7] On perusal of record and upon hearing the submission of the learned counsel for the parties, this Court is of the opinion that by the impugned proceeding dated 02.02.2024, no proper reasoning has been made out by the Court below to justify the mutual consent of divorce. Further, no observation has been made on the fact that, it is the responsibility of both the parents to look after the children. Since all the pleadings and evidence are not mentioned in the impugned proceeding dated 02.02.2024, this Court is of the opinion that the matter be remanded back to the Court below for adjudicating the same afresh in accordance with law and to pass a reasoned order. Thus, the order impugned passed by the Court below is set aside.

With the above observation and direction, this instant petition filed by the petitioner is allowed to the extent as indicated above and the matter is remanded back for fresh adjudication.

Thus, the instant petition is disposed of. As a sequel, miscellaneous application(s) pending if any, shall also stand closed.

JUDGE

Sabyasachi G.

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