

**HIGH COURT OF TRIPURA
AGARTALA**

CRP No.25/2024

Sri Pritam Saha

..... Petitioner(s).

V E R S U S

Smt. Sujaya Sen

.....Respondent(s).

For Petitioner(s) : Mr. Dipjyoti Paul, Advocate.

For Respondent(s) : None.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

15/04/2024

Heard Mr. Dipjyoti Paul, learned counsel for the petitioner.

2. Both these spouses are said to be earning. Learned Court by the impugned order dated 30.01.2024 passed in Civil Misc. No.23 of 2022 [arising out of T.S.(RCR) No.11 of 2022 instituted by the respondent-husband] has allowed the litigation expenses in favour of the respondent-wife to the tune of Rs.8,000/- as one time litigation cost under Section 24 of the Hindu Marriage Act, 1955 with which the petitioner-husband is aggrieved.

3. The learned Court in the impugned order has while considering the rival pleas taken note of the fact that the child of the parties resides with the respondent-wife though both the parties are poised equally in financial strength and there is no maintenance order in favour of the respondent/petitioner or the child of the parties. The learned Court also seems to be persuaded by the fact that the respondent is not entitled to any maintenance *pendente lite* as she is in service. However, since the litigation has been forced upon her by the

petitioner-husband, litigation expenses of Rs.8,000/- has been awarded in her favour with which the petitioner is aggrieved.

4. According to the learned counsel for the petitioner, both the parties are serving as employees in Tripura Gramin Bank and having sufficient source of income to maintain themselves. The provisions of Section 24 of the Hindu Marriage Act, 1955 prescribe for grant of maintenance *pendente lite* and litigation expenses only if either of these spouses has no independent income sufficient to support them and to meet the necessary expenses of the proceedings. It appears that the respondent-wife has instituted three cases; one of them being R.K. Pur Women P.S. case No.WRP/2022/011 under Sections 498A/323 of the IPC read with Section 4 of the Dowry Prohibition Act, 1961 which is pending before learned Judicial Magistrate Ist Class, Court No.6, Gomati Judicial District and maintenance case being CR Misc. No.20 of 2024 and also a Criminal Misc. (Interim) No.06 of 2024 seeking interim maintenance before the same Family Court. Therefore, learned counsel for the petitioner-husband submits that she is in a position to prosecute at least three petitions against the petitioner-husband and is sufficient to not only maintain herself but bear the litigation expenses also. As such, the reasoning of the learned Court while granting litigation expenses is flawed.

5. Be that as it may, prosecution of legal remedies by a party cannot be taken as adverse to her if law permits such a party to take recourse to such a proceeding and is sustainable on legally tenable grounds. This in itself could be a basis to form an opinion by the learned trial Court that besides the RCR case, the petitioner has to prosecute at least two main petitions and one interim

petition against the husband, that too in connection with the matrimonial dispute, i.e. cruelty in marriage and maintenance under Section 125 of Cr.P.C. Though the wife has sought maintenance *pendente lite* also, but the learned Family Court did not deem it proper to award any maintenance to her under Section 24 of the Hindu Marriage Act, 1955 as she is already prosecuting maintenance case under Section 125 of Cr.P.C. against the petitioner-husband before the same Court.

6. In such circumstances, the award of litigation cost of Rs.8,000/- only as a one time measure to the respondent-wife by the learned Court does not border on such erroneous exercise of jurisdiction which warrants interference in revisional jurisdiction of this Court. Therefore, the revision petition is dismissed.

Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ

Pulak

PULAK BANIK Digitally signed by PULAK BANIK
Date: 2024.04.16 15:55:19 +05'30'