

HIGH COURT OF TRIPURA
AGARTALA

Crl.Rev.P. 36 of 2024

Smt. Sima Debbarma & Ors

---Appellant(s)

Versus

Sri Jagabandu Debbarma

---Respondent(s)

For Petitioner(s)	:	Mr. Koushik Roy, Advocate.
For Respondent(s)	:	Mr. Dipjyoti Paul, Advocate.
Date of hearing and date of judgment and order	:	11.07.2024.
Whether fit for reporting	:	No

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & Order (Oral)

Heard Mr. Koushik Roy, learned counsel for the petitioner also heard Mr. Dipjyoti Paul, learned counsel for the respondent.

[2] This is application under Section 397 read with Section 401 of Cr.PC, 1973 challenging the legality, correctness, propriety of the impugned Judgment dated 17.04.2024 passed by the learned Judicial Magistrate, 1st Class, Court No.2, Agartala, West Tripura, in case No.Misc.3364 of 2023.

[3] The brief facts of the case of the petitioners is that the petitioner no.1 is a legally wedded wife of the respondent and have one daughter namely Genelia Debbarma and one son namely Siddhartha Debbarma. It also appears that the aggrieved petitioner no.1 was deserted with her children by the respondent from home and on being helpless, presently she has started to residing at her parental house. It is contended by the counsel for the petitioners that the respondent is earning a monthly salary of Rs.41,606/- and being so it is the obligation upon the father to look after the upbringing of his children and assure their future in the spirit of the Constitution of India.

[4] The learned court below after hearing the parties and on perusal of the material evidence on record has observed as under:

Considering the facts and circumstances it is hereby ordered that the respondent shall pay the interim maintenance to Rs.1,500/- monthly in favour of the petitioner namely Sima Debbarma and pay an interim maintenance of Rs. 2,000/- to the children's (son and daughter). Therefore, in total respondent is directed to pay monthly maintenance of Rs. 3,500/- to be paid to the petitioner since she is the legal guardian of her children's.

The order of payment of interim maintenance shall be applicable from the date of passing of this order.

The monthly can be deposited in the appropriate account in the name of the petitioner and in case cash is paid due acknowledgement of the same shall be taken.

[5] Aggrieved by the impugned order dated 17.04.2024 passed by the learned court below, the petitioners have approached this Court seeking the following relief(s):

- I. Admit this Revision Petition;
- II. Call for the records, appertaining to the impugned Judgment dated 17.04.2024 (Annexure-4 supra), passed in Case No. Misc.3364 of 2023;
- III. After hearing the parties, in terms of the GROUNDS set forth above, be pleased to quash/set aside the impugned Judgment dated 17.04.2024 (Annexure-4 supra), passed by the Learned Judicial Magistrate 1st Class, in Case No. Misc.3364 of 2023, and thereafter, allow this Revision Petition, and to allow the maintenance allowance prayed for by the petitioner at the tune of Rs.25,000/-, for the petitioner as well as the minor children, being the interim allowance; and
- IV. Pass any other Order(s) as to this Hon'ble High Court may deem fit and proper

[6] It is seen from the record that the petitioners have approached this court aggrieved by the impugned order dated 17.04.2024 passed by the learned Judicial Magistrate, 1st Class, Court No.2, Agartala, West Tripura, in case No.Misc.3364 of 2023 arising out of CR(DV) 273 of 2023 wherein Rs.3500/- was fixed as monthly maintenance for the wife-petitioner along with her minor children. Aggrieved by the said fixation seeking an enhancement, the present revision petition has been filed. At this juncture, Mr. Dipjyoti Paul, learned counsel appearing for the husband-respondent represented before this court that under Section 29 of the Protection of Women from Domestic Violence Act, 2005, the petitioner could have preferred an appeal before the Court of Session within

30(thirty) days. But the petitioner herein has not availed such remedy and approached this court for seeking relief. Hence the revision petition is not maintainable.

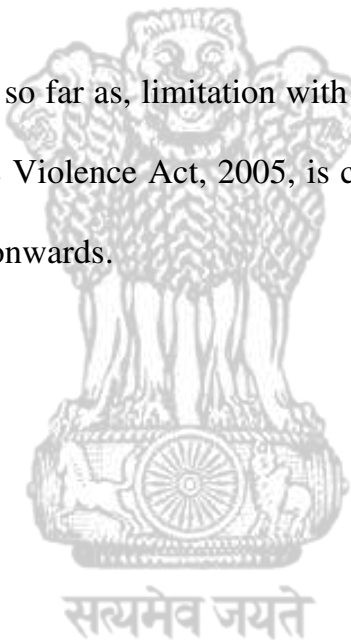
For ready reference, Section 29 of the Protection of Women from Domestic Violence Act, 2005, is extracted herein under:

29. Appeal.—There shall lie an appeal to the Court of Session within thirty days from the date on which the order made by the Magistrate is served on the aggrieved person or the respondent, as the case may be, whichever is later.

[7] At this juncture, Mr. Koushik Roy, learned counsel for the petitioners seeks liberty to withdraw the same to avail the remedies under law.

[8] In view of the above observation, the present criminal revision petition stands dismissed as withdrawn. As a sequel, miscellaneous applications pending, if any, shall stand closed.

[9] However, in so far as, limitation with regard to Section 29 of the Protection of Women from Domestic Violence Act, 2005, is concerned, the limitation of 30 days is to be counted from today onwards.



JUDGE

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