

**HIGH COURT OF TRIPURA  
AGARTALA**

**Crl. Rev. P.44 of 2024**

**Smt. Papiya Das**

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

**Versus**

**Shri Palash Das**

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

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For Petitioner(s) : Ms. P. Dhar, Advocate.

For Respondent(s) : Ms. M. Chakraborty, Advocate.

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**HON'BLE MR. JUSTICE T. AMARNATH GOUD**

**ORDER**

**24.07.2024**

Heard Ms. P. Dhar, learned counsel for the petitioner. Also heard Ms. M. Chakraborty, 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 Criminal Procedure Code, 1973 against the judgment and order dated 01.04.2024 passed by the Addl. Judge, Family Court, West Tripura, Agartala in case No. Crl. Misc.(Int.) 373 of 2023.

**[3]** The case of the petitioner in brief is that the she and the respondent were married to each other on 14.05.2019 following Hindu rites and customs and thereafter, six months later, one of the relative of the respondent informed them that one Pradip Das had posted some photographs of the petitioner in the Facebook claiming her as his wife. The petitioner narrated the entire facts to the respondent and his family that she has no connection with the said Pradip Das. It is contended that due to this incident, the respondent and his family started to misbehave with the petitioner frequently. They also started torturing the petitioner

mentally. Thereafter, the petitioner had to take shelter in her parental house in the last part of December, 2019 and since then, she had been residing in her parental house. Since, the respondent did not pay any kind of maintenance allowance, the petitioner filed a petition under Section 125 of the Cr.P.C which was registered as CrI. Misc. 372 of 2023 before the Learned Family Court, West Tripura, Agartala and she also filed a petition under Section 125(1)(ii) of Cr.P.C for granting ad-interim maintenance allowance which was registered as CrI. Misc. (Interim) 373 of 2023. The learned Additional Judge, Family Court, West Tripura, Agartala by Judgment and Order dated 01.04.2024 in CrI. Misc. (Interim) 373 of 2023 rejected the prayer of the Petitioner for granting her interim maintenance allowance on the ground that the petitioner herein had lived in adultery with Pradip Das prior to her marriage.

**[4]** Aggrieved by the aforesaid order of the Court below, the petitioner has approached this Court seeking following reliefs:

"i) admit the Petition of the Petitioner;

ii) issue notice upon the Respondent;

iii) after hearing all be further pleased to set aside the Judgment and Order dated 01.04.2024 passed by the Learned Additional Judge, Family Court, West Tripura, Agartala in Case No. CrI. Misc. (Int.) 373 of 2023;

AND

Pass any such order(s) and / or direction(s) as this Hon'ble Court deems fit and proper in the circumstances of this nature....."

**[5]** Ms. P. Dhar, learned counsel appearing for the petitioner-wife submits that learned Court below has committed manifest error while deciding the case for interim maintenance to the wife. It has been held that the petitioner herein had lived in adultery with one Pradip Das prior to her marriage. She contends that the statement in itself is incoherent and inconsistent as the meaning of adultery is voluntary sexual intercourse between a married person and a person who is not their spouse. Therefore, the view or opinion of the learned Court below that the petitioner had lived adultery with one Pradip Das prior to her marriage to the respondent is not sustainable.

**[6]** She further submits that learned Court below in a most whimsical and capricious manner, based on no evidence held that petitioner herein had lived in adultery prior to her marriage and rejected the prayer of the petitioner seeking interim maintenance in a most arbitrary and illegal manner. She, therefore, urges this Court to set aside the impugned order dated 01.04.2024 passed by the learned Court below.

**[7]** On the contrary, Ms. M. Chakraborty, learned counsel for the respondent-husband contends that the petitioner-wife admitted the fact to the husband that she had illicit affairs with one Pradip Das and she, willfully, left the matrimonial home. She submits that the respondent is a poor private tutor. Being a private tutor, he earns a meager amount of about Rs.5000/- per month by way of providing tuition. Due to the litigation, it is being difficult for him to take up tuition and his earnings are also affected. She, therefore, urges this Court to dismiss the present criminal revision petition.

**[8]** On perusal of record and upon hearing the submissions of the learned counsel for the parties, this Court is of the opinion that there should be some maintenance amount to be paid by the husband taking the responsibility of the wife. Thus, this Court is of the view that ends of justice would be met if interim maintenance of Rs.2000/- per month shall be paid to the wife by the husband from the date of filing of the application for ad-interim maintenance allowances before the Court below till the disposal of pending criminal proceeding before the Court below. Accordingly, the same is ordered.

**[9]** Petitioner is also directed to pay all the arrears 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. All the payments regarding monthly maintenance/arrears shall be paid within 10<sup>th</sup> day of every English calendar month.

Both the parties are at liberty to co-operate with the court proceedings which are pending before the Court below.

In view of the above, the impugned order dated 01.04.2024 passed by the Court below is set aside. Accordingly, this criminal revision petition is allowed to the extent as indicated above and the same is disposed of.

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

**JUDGE**



Sabyasachi G.

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GHOSH

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