

**HIGH COURT OF TRIPURA  
AGARTALA**

**Crl. Rev. P. No.54 of 2024**

1. Swapna Begam, W/o Md. Taj Uddin, D/O Nefur Miah  
2. Mariama Yasmin, D/o Md. Taj Uddin,  
Both of residing at: Vill: Uttar Baraband P.O. Tilabazar, P.S. Irani, Kailashahar,  
Dist: Unakoti Tripura

.....Petitioner(s);

Versus

1. State of Tripura  
2. Md. Taj Uddin, S/o Late Rahim Uddin, Vill & P.O. Nurpur, P.S. & Sub-  
Division: Kailashahar, District: Unakoti Tripura.

.....Respondent(s).

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| For Petitioner(s) | : Ms. R. Majumder, Advocate.                                      |
| For Respondent(s) | : Mr. Raju Datta, Public Prosecutor,<br>Ms. Ankita Pal, Advocate. |

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**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH**

**Order**

**13/11/2024**

Petitioners as well as the respondent No.2 are represented through legal aid counsel. State of Tripura is represented by Mr. Raju Datta, learned Public Prosecutor.

Petitioners are wife and daughter living separately from the respondent No.2-husband and father. They were awarded maintenance at the rate of Rs.1500/- and Rs.500/- per month with mutual consent under Section 125 of the Cr.P.C by order dated 02.08.2022 passed in Crl. Misc. (125) – 06 of 2022. Thereafter the prayer for enhancement has been made under Section 127 of the Cr.P.C which has been disposed of by the impugned order dated 02.02.2024 with a direction to pay enhanced monthly maintenance allowance of Rs.1700/- to petitioner No.1 and Rs.800/- to petitioner No.2 with effect from the date of the order i.e. 02.02.2024 to be remitted to the savings bank account of the petitioner No.1 by 7<sup>th</sup> day of every following English Calendar Month.

Petitioner No.2 – daughter is aged about four years. It is evident that no materials could be produced either by the petitioner No.1 who is the wife and an illiterate lady having no sources of income or by the respondent No.2 who is the husband. The case was set up by the petitioners on a plea that respondent No.2 is a skilled mason who also has landed properties measuring 10/15 kanis as well as fisheries and income from all sources is not less than Rs.35,000/- to Rs.40,000/- per month. However, no such materials were adduced to justify the same. Even disclosures of assets and liabilities by such parties who are illiterate and below the poverty line could not be expected. The Apex Court has in the case of ***Rajnesh v. Neha and another*** reported in ***(2021) 2 SCC 324*** given a concession to relieve the parties from furnishing affidavit of assets and liabilities in case they belong to economically weaker section or are in BPL category or are casual labourers. The relevant paragraph No.72.9 is extracted hereunder:

*“72.9.(i) In case the parties belong to the economically weaker sections (“EWS”), or are living below the poverty line (“BPL”), or are casual labourers, the requirement of filing the affidavit would be dispensed with.”*

The finding of the learned Family Court, therefore, appears to be on an assumption that cost of living and income both should have increased in a span of two years when the original maintenance amount was awarded at the rate of Rs.1500/- and Rs.500/- in favour of the petitioners. It however appears that respondent No.2 has also not been able to dispute that he is engaged as a daily wager – whether skilled or not – is not substantiated by any materials placed by either of the parties. As per the rate of minimum wages, the income of respondent No.2 if gainfully engaged at least for 20 to 25 days in a particular month could be not less than Rs.12,000/- per month. In such circumstances, the

petitioners who are the wife and minor daughter of the respondent No.2 could surely be entitled to one-third of the total income of the respondent No.2 as monthly maintenance.

For the aforesaid reasons, this Court is therefore of the considered view that the monthly maintenance allowance ought to have been enhanced to the scale of Rs.2,500/- from Rs.1,700/- in favour of petitioner No.1 and Rs.1,500/- from Rs.800/- in favour of petitioner No.2 who is a minor daughter aged about four years. The enhanced maintenance would take effect from the date of the impugned order dated 02.02.2024. Remittance, if any, has to be made in the manner prescribed by the learned Family Court in the impugned order.

The instant petition is allowed to the extent indicated hereinabove in the aforesaid manner.

Pending application(s), if any, shall stand disposed of.

**(APARESH KUMAR SINGH), CJ**

Pijush/

**DIPESH DEB** Digitally signed by DIPESH DEB  
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