

**HIGH COURT OF TRIPURA  
AGARTALA**

**Crl.Rev.P.No.54 of 2023**

**Sri Navadyuti Paul @ Pal**

S/O Sri Narayan Ch. Paul  
Resident of Dhaleswar, East of R.K. Mission  
P.O-Dhaleswar, P.S.-East Agartala,  
District-West Tripura.

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

**Versus**

**Smt. Sampa Banik**

W/O Sri Navadyuti Paul  
D/O Lt. Dharendra Ch. Banik  
Resident of: H/O Sri Debabrata Bhowmik  
Dhaleswar, Opposite to R.K.V.M,  
P.O.-Dhaleswar, P.S.- East Agartala,  
District- West Tripura

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

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|-------------------------------------------|---|---------------------------------------------------------|
| For Petitioner(s)                         | : | Mr. S. Das, Adv,                                        |
| For Respondent(s)                         | : | Mr. S. Kar Bhowmik, Sr. Adv,<br>Mr. E. L. Darlong, Adv. |
| Date of Hearing                           | : | 16.05.2024                                              |
| Date of delivery of<br>Judgment and Order | : | 22.05.2024                                              |
| Whether fit for<br>Reporting              | : | NO                                                      |

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**HON'BLE MR. JUSTICE BISWAJIT PALIT**

**Judgment & Order**

This Criminal Revision Petition is filed under Section 397 read with Section 401 of the Code of Criminal Procedure 1973, and with Section 19(4) of the Family Courts Act, 1984 challenging the judgment and order dated 17.06.2023 in connection with case No.Crl.Misc.342 of 2018 delivered by the Learned Addl. Family Judge, West Tripura, Agartala whereby the Learned Family Judge allowed the application for maintenance filed by the petitioner.

**02.** Heard Learned Counsel Mr. S. Das for the petitioner-husband and also heard Learned Senior Counsel, Mr. S. Kar Bhowmik assisted by Learned Counsel, Mr. E. L. Darlong for the wife-respondent. Before proceeding with the merit of the case, let us revisit the subject matter of grievances amongst the parties.

**03.** The respondent-wife filed one application under Section 125 of Cr.P.C. claiming maintenance against her husband, Sri. Navadyuti Paul for granting maintenance allowance at the rate of Rs.30,000/- per month. It was the case of the respondent-wife that her marriage was solemnized with the petitioner-husband on 23.12.2016 under Special Marriage Act 1954 and a marriage certificate vide Reg. Sl. No.137 book No.19 and Sl. No.378 was issued. Thereafter, on 01.02.2017 at Udaipur Tripureswari Temple, their formal marriage was held according to Hindu Marriage Rites and Customs. In the marriage, wooden furniture, steel almirah, LCD T.V., along with other golden jewellery were given by the guardian of the respondent-wife. The respondent-wife was a divorcee, in the year 2013, she got divorce from her previous husband and that fact was known to the knowledge of the petitioner-husband and to his parents and sister. The petitioner-husband got her married after knowing everything. After divorce in the year 2013, the respondent-wife completed M.A. Part-I in English and started private tuition to earn her livelihood, but due to scarcity of

space in the rented parental house, she took a room on rent in the house of husband-petitioner for tuition and they got intimated to each other. Seeing the respondent-wife, the petitioner-husband and his family members had initiated proposal for marriage and later on, she was agreed and the marriage was held.

It was further submitted that mental torture was started upon the respondent-wife after firajatra within a week by the petitioner-husband and his family members regarding dowry. Not only that, the petitioner husband and his family members in collusion with each other started demanding further sum of Rs.10,000,00/- from her parental house and started causing physical and mental torture upon her as she expressed inability of her brother to fulfill the demand. On several occasions, the O.P. wife was subjected to physical and mental torture by the petitioner. She was kept under starvation and her movements were restricted. She was kept locked, even she was not allowed to pursue her private tuition. Sometimes, she was kept locked in a room by her mother-in-law namely Smt. Purabi Pal and they used to rebuke her in filthy languages. Even, one small room at the 2<sup>nd</sup> floor of her in-law's house was allocated to the respondent-wife where she could sleep and since 10.02.2017, just after 10 days of their social marriage, the petitioner-husband stopped maintaining the respondent-wife and she used to cook her own food with a gas oven brought

from her parental house. Not only that, the petitioner-husband also stopped sharing bed with the respondent-wife. On 14.02.2017, the respondent-wife was assaulted by the petitioner-husband, his father and elder sister regarding family affairs.

**04.** It was further submitted that the petitioner-husband under intoxication used to cause physical torture upon the respondent-wife and after digesting all the problems, the respondent-wife continued to stay at her matrimonial home. On 07.10.2017, the respondent-wife woke up in the morning and was standing beside a window in the common space of the 2<sup>nd</sup> floor of the house for some morning fresh air wherein her father-in-law objected and asked her to leave and got to her room. As the respondent-wife was standing, her father-in-law called her husband and other family members and all of them holding her hair, attacked the respondent-wife by fist and blows and subsequently, tried to kill the respondent-wife for which she sustained bleeding injuries and somehow she could save her and went inside her room and from where, she was rescued by police. Thereafter, she lodged one complaint and on the basis of which, East Agartala Women P.S. case No.75/17 under Section 498-A, 326, 307, 34 of IPC was registered and the case was ended in charge-sheet and at present that case is pending in the Court of Learned J.M. 1<sup>st</sup> Class, West Tripura, Agartala in Court No.1. On 07.10.2017, the

respondent-wife was admitted to G.B.P Hospital, Agartala and was released on 09.10.2017. Since then, she is staying at the residence of her brother. The matter was further dealt with by Women Commission in a proceeding and the members of the Women Commission visited the parental house of the respondent-wife and recorded her statement.

**05.** It was further case of the petitioner that she was a student of M.A. in English and with all her belongings were at her matrimonial home, so, she prayed for police protection to enter her in-law's house to collect her daily uses articles. But the petitioner-husband denied to hand over the same and told her to get a protection order from the Court and thereafter, she filed a domestic violence case to the Court, which is now pending for disposal before the Learned Court of J.M. 1<sup>st</sup> Class, Court No.1, West Tripura, Agartala. She further submitted a petition under Section 23 of the Domestic Violence Act for interim order and she got protection order. After that she went to her in-laws house on 24.06.2018 but she was denied entry and accordingly, complaint was lodged to East Agartala Women's P.S. and to CDPO on 24.06.2018 and on 25.06.2018 respectively. The CDPO vide his enquiry report dated 09.07.2018 informed the matter to the Trial Court. It was further submitted that she was staying in the residence of her brother and was incapable to earn any money. The petitioner-husband also did not provide any maintenance to her for her livelihood, so

she filed the case. In the petition, she further stated that her husband is a Medical Representative and is working at Dr. Reddy's Laboratory Ltd, a renowned medicine company and he was working under 'stamlo division' of the said company and was posted at Agartala and his gross salary was above Rs.90,000/- and he has got no other obligation as his parents were also financially sound. But the petitioner-husband refused to provide maintenance to the respondent-wife and as such she filed the petition claiming maintenance at the rate of Rs.30,000/- per month. In obedience to the notice issued, the petitioner-husband as O.P. appeared, the conciliation process was initiated but that was failed.

**06.** The petitioner-husband contested the case by filing written objection wherein, he denied all the assertions but admitted the fact of marriage, rather he took the plea that after the marriage, his wife started creating pressure upon him for separation from their joint mess but he was not ready to do the same. On 07.10.2017, in the morning, the petitioner-wife i.e. the respondent herein started to scold the parents of the petitioner-husband saying that when they will die, so that she can live peacefully alone in the whole house along with her husband. Hearing this, the mother of the petitioner-husband asked the respondent-wife as to why she was uttering all these nonsense for which the respondent-wife started assaulting both the old aged parents of the petitioner-husband and pushed them forcefully and due to

that both of them sustained injuries. On hearing hue cry, the petitioner-husband and his sister woke up from the sleep and seeing their parents in miserable condition, they raised voice and at that time the respondent-wife unnecessarily started raising hue and cry to gather people of their locality. It was further submitted that just to give a lesson, the respondent-wife filed cases one after another against them and also took the plea that the respondent-wife was an earning lady and her monthly income is Rs.30,000/- per month rather, the petitioner-husband was getting monthly salary of Rs.20,000/- including his expenses but his actual salary was Rs.12,000/-, being a Medical Representative and he used to incur permanent recurring expenditure of about Rs.10,000/- per month. It was further submitted by the petitioner-husband that the respondent-wife, being an earning lady and she of her own having withdrawn herself from the society of her husband, as such she was not entitled to get any maintenance. So, by the WS, the petitioner-husband prayed for dismissal of the proceeding with costs.

**07.** Upon the pleadings of the parties, Learned Family Court below determined the following points for decision of this case:

**i) Whether petitioner is the legally married wife of OP Sri Nabadyuti Paul?**

**ii) Whether OP has neglected to give maintenance to the petitioner since 07.10.2017?**

**iii) Whether the petitioner has just ground to claim maintenance allowance from OP?**

iv) Whether the petitioner is unable to maintain herself and OP has sufficient means of income?

v) Whether the petitioner is entitled to get monthly maintenance allowance of Rs.30,000/- per month for herself from OP?

**08.** To substantiate the points, both the parties have adduced oral/documentary evidence on record:

**APPENDIX**

**(A) Petitioner's Exhibit:-**

Exbt.-1 – Certificate of Marriage vide Sl. No.378 dtd. 23.12.2016 under Special Marriage Act.

Exbt.-2 – The copy of ejahar, FIR along with the charge-sheet in connection with East Agartala Women PS case no. 2017/WEA/075 dt.07.10.2017.

Exbt.-3 - Copies of the medical prescription of treatment of IGM hospital and discharge certificate of GBP Hospital.

Exbt.-4 – Certified copy of order sheet dtd. 26.03.2018 in Misc. 114/18.

Exbt.-5 – Inquiry report dtd. 09.07.2018 of the Protection Officer (CDPO).

**(B) Opposite Party's Exhibit:-**

Exbt.-A/1 :- Pay Slip of OP for the month of April, 2022.

**(C) Petitioner's Witness:-**

PW1- Smt. Sampa Banik;

PW2- Sri Bikram Banik;

**(D) Opposite Party's Witness:-**

OPW-1:- Sri Navadyuti Paul;

**(E) Court's Witness: NIL.**

**(F) Court's Exhibits: NIL.**

**(G) Material Exhibits: NIL.**

**09.** Finally, after hearing argument of both the sides and on perusal of the documentary evidence on record, Learned Additional Family Judge, West Tripura, Agartala allowed the claim-petition of the petitioner-wife.

**10.** For the sake of convenience, I would like to reproduce herein below the operative portion of the order which is as follows:

**"In the result, it is hereby held that the petition dated 03.08.2018 filed by the claimant-petitioner is allowed as per sec.125(1) of Cr.P.C. with effect from the date of petition. The wife-petitioner Smt. Sampa Banik is awarded maintenance allowance @ Rs. 15,000/- (rupees fifteen thousand) only per month w.e.f the month of August, 2018 onward.**

**The interim maintenance @ Rs.6,000/- was awarded vide order dtd 06.10.2018 in Misc (Int.) 343 of 2018 to the wife petitioner. So the total sum of interim maintenance paid by OP from the month of October, 2018 till the month of May, 2023 shall be deducted from the total arrear of maintenance accumulated during the period of August, 2018 to May, 2023. Thus the total arrear of maintenance will be Rs. 5,34,000/- (Rupees five lakh thirty four thousand) [i.e., Rs.8,70,000/- (@ Rs.15,000/- X 58 months) less Rs.3,36,000/- @ Rs.6,000/- X 56 months being the interim maintenance paid by OP.]**

**O.P. Sri Navadyuti Paul is hereby directed to pay the arrear maintenance of Rs.5,34,000/- (Rupees five lakh thirty four thousand) only either wholly or partly by way of 50 nos equated monthly installments @ Rs.10,680/-(rupees ten thousand six hundred eighty) only per month in favour of the wife-petitioner Smt. Sampa Banik with effect from the month of June, 2023 and onward by depositing the same in her bank account within first week of every following month of English calendar until realization.**

**O.P. Sri Navadyuti Paul is also directed to pay the monthly maintenance allowance of Rs. 15,000/- (Rupees fifteen thousand) only per month to the wife-petitioner, with effect from the month of June, 2023 and onward by depositing the same in the bank account of the petitioner within first week of every following English calendar month. OP shall continue to pay this sum of maintenance per month even after payment/recovery of the aforementioned arrear.**

**Supply a copy of this judgment to both parties at free of cost.**

**Thus, the case stands allowed & disposed of on contest.**

**Make entry into the Trial Registrar and CIS.”**

**11.** In course of hearing of argument, Learned Counsel for the revision-petitioner submitted that before the Learned Trial Court the wife-respondent could not produce any evidence regarding actual income of the petitioner-husband, rather, the petitioner-husband before the Trial Court submitted that he was earning Rs.14,512/- and relied upon Exhibit-1, but the Learned Court below did not consider the same, rather without any basis imposed the payment of maintenance allowance upon the petitioner-husband at the rate of Rs.15,000/- per month in absence of cogent evidence on record, for which the interference of the Court is required.

**12.** On the other hand, Learned Senior Counsel, Mr. S. Kar Bhowmik assisted by Learned Counsel E. L. Darlong, appearing on behalf of the wife-respondent submitted that the petitioner-husband has suppressed his actual income before the Learned Court, for which Learned Senior Counsel, at the time of argument urged before the Court to call for the bank statement of the petitioner-husband, so as to assess his monthly income and further submitted that in the written objection, filed by the husband in para No.15, it was stated that his monthly salary was Rs.20,000/- and at the time of evidence, relied upon Exhibit-1, from which it appears that his income was 14,000/- per month approximately. So, the petitioner-husband gave contradictory evidence for which the Learned Court below did not consider the same and

ultimately awarded maintenance at the rate of Rs.15,000/- per month from the month of August 2018 onwards and urged for dismissal of the Revision Petition, upholding the final order passed by the Learned Additional Judge, Family Court, Agartala.

**13.** I have heard detailed arguments of both the sides and gone through the record of the Learned Court below including the evidence on record of the parties. There is no dispute on record in respect of the fact of marriage of the respondent-wife with the petitioner-husband on 23.12.2016, which was later on socially performed at Udaipur, Tripureswari Temple on 01.02.2017 in presence of the near relatives of both the sides. It is also on record that after the marriage, some mal-adjustment cropped up amongst the parties for which the respondent-wife filed a criminal case and also a case under Domestic Violence Act and both the cases were pending before the respective Courts at present.

**14.** I have also perused the evidence on record. In course of hearing, Learned Senior Counsel for the respondent-wife submitted by calling the bank statement of the petitioner-husband to assess his monthly income but in this regard, it is submitted that considering the nature of the proceeding, at this stage there is no scope to accede to the submission made by Learned Senior Counsel for the respondent-wife. Rather, the finding of this Court would be based upon the evidence on record, adduced by the parties

before the Learned Family Court. As already stated the petitioner-husband in his written statement submitted that his monthly salary is Rs.20,000/- including his expenses and his actual salary is Rs.12,000/- but before the Learned Trial Court, he relied upon Exhibit-1 from which, it appears that his total earning is 16,650/- and after deduction he was getting 14,512/- but that document was not signed and even the Issuing Authority was not adduced by him to substantiate his contention. Learned Trial Court, finally, considering the length of his job over 12 years as a Medical Representative of a reputed concern, assessed his remuneration from all sources to Rs. 50,000/- to 60,000/- per month at the lowest.

**15.** It is alleged by the petitioner-husband that the respondent-wife was doing private tuition and from private tuition, she was earning Rs.30,000/- per month. But in this regard, no documentary evidence could produce by the petitioner-husband before the Learned Trial Court. So, this contention of the Learned Counsel for the petitioner, at the time of hearing of argument cannot be accepted that the respondent-wife was earning Rs.30,000/- per month from her private tuition and the same was not proved by any cogent evidence on record.

**16.** Learned Court below also at the time of delivery of the judgment, relied upon the judgment of the Hon'ble Apex Court in **Rajnish vs. Neha & Anr."** in **Criminal**

**Appeal No.730 of 2020 [Arising out of SLP(Crl.) No.9503 of 2018]**, and came to the observation that if the wife is also earning, it cannot operate as a bar from being awarded maintenance by the husband and finally, awarded maintenance at the rate of Rs.15,000/- per month.

**17.** So, after hearing arguments of both the sides and also after going through the evidence on record of the parties before the Learned Family Court, it appears that the petitioner-husband could not conclusively prove that his monthly income was/is Rs.20,000/- or Rs.14,500/-, in view of the contradictory evidence on record.

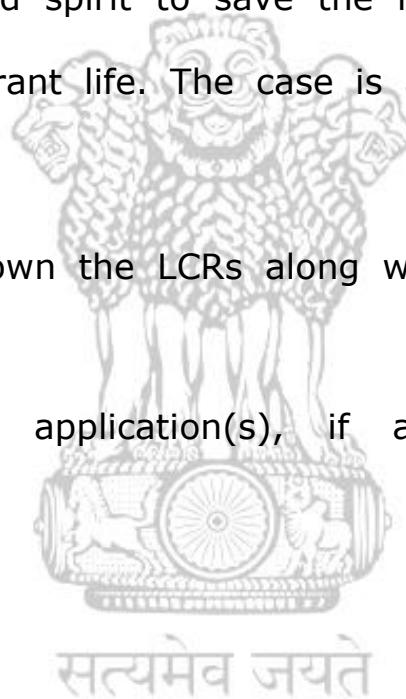
**18.** Thus, in my considered view, Learned Court below rightly assessed the monthly income of the petitioner-husband from Rs.50,000/- to 60,000/- per month, in view of his long standing job as a Medical Representative in a reputed concern and as such, I do not find any scope to interfere with the judgment/final order passed by Learned Additional Judge, Family Court, Agartala, by order dated 17.06.2023. Before the High Court, after hearing both the parties, a direction was given to the petitioner on 15.12.2023 to continue to pay the maintenance as ordered by the Learned Trial Court vide judgment dated 17.06.2023. But in course of hearing, it appeared that the petitioner-husband failed to comply with the order. However, the petitioner-husband is under legal obligation to pay the maintenance allowance and the arrear maintenance allowance as ordered

by the Learned Trial Court below by judgment dated 17.06.2023 in letter and spirit.

**19.** In the result, the Revision Petition filed by the petitioner-husband is hereby dismissed on contest being devoid of merit. The judgment and order dated 17.06.2023 passed by Learned Additional Judge, Family Court, Agartala in connection with case No.Crl.Misc.342 of 2018 is hereby upheld and accordingly, it is affirmed. The husband-petitioner shall comply the order of the Learned Trial Court below in letter and spirit to save the respondent-wife to suffer from a vagrant life. The case is accordingly stands disposed of.

Send down the LCRs along with a copy of the judgment.

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



**JUDGE**

**MOUMITA  
DATTA**

*Purnita*

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