

**HIGH COURT OF TRIPURA
AGARTALA**

Crl. Rev.P.05 of 2024

Smt. Sita Debnath and another

.....Petitioner(s)

Versus

Shri Bikash Das and another

.....Respondent(s)

For Petitioner(s) : Mr. A. Acharjee, Advocate.
Ms. S. Sarkar, Advocate.

For Respondent(s) : Mr. S. Ghosh, Addl. PP.
Ms. P. Chakraborty, Advocate.

Date of hearing & delivery
of judgment and order : 04.07.224

Whether fit for reporting : Yes/No.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

JUDGMENT & ORDER (ORAL)

Heard Mr. A. Acharjee, learned counsel alongwith Ms. S. Sarkar, learned counsel for the petitioners. Also heard Ms. P. Chakraborty, learned counsel for respondent No.1. Mr. S. Ghosh, learned Addl. PP is present on behalf of the State respondent.

[2] This criminal revision petition is filed under Section 401 of Criminal Procedure Code read with Section 397 of the said Code to examine the legality, validity and propriety of the impugned order dated 18.10.2023 passed by the learned Addl. Sessions Judge, Dhalai Judicial District, Kamlapur in Criminal (Revision) 09 of 2022, whereby and wherein the learned Court modified the order dated 29.07.2021 in case No. Crl. Misc.19 of 2020 passed by the Sub-Divisional Judicial Magistrate, Kamalpur and reduced the maintenance amount from Rs. 15,000/- to Rs 11,000/- which shall be effective from the date of the order dated 18.10.2023.

[3] The impugned order dated 18.10.2023 passed by the learned Court below in case No. Criminal (Revision) 09 of 2022 reads as under:

"11. Hence, it is

ORDERED

that, the maintenance awarded of Rs. 15,000/- by Ld. SDJM, Kamalpur vide order dated 29.07.2021 in CrI. Misc Case no. 19 of 2020 is hereby modified and reduced to Rs. 11,000/- (Eleven Thousand) only which shall be effective from the date of this order. Other direction of Ld. below court will remain the same.

12. Accordingly a copy of this judgment be supplied to both the parties free of cost.

13. Thus, the instant case is accordingly disposed of on contest.

14. Return LCR accordingly....."

[4] Aggrieved by the aforesaid order impugned passed by the learned Court below, the petitioner has preferred this petition seeking following reliefs:

"i) Admit this revision petition;

ii) Call for the records;

iii) Issue notice upon the respondent; and

iv) After hearing of the parties and on a perusal of the evidence on record be pleased enough to set-aside/quash the impugned order dated 18-10-2023 passed by ***** the Ld. addl. Sessions Judge, Dhalai Judicial District, kamlapur in Criminal Revision 09 of 2022, whereby and wherein the Ld. Court modified the order dated 29.07.2021 in CrI. Misc Case no.19 of 2022 passed by the Sub- Divisional Judicial Magistrate, Kamalpur, Unakoti Judicial District and reduced the maintenance amount from Rs 15,000/-to Rs 11,000/- which shall be effective from the date of the order dated 18.10.2023....."

[5] Mr. A. Acharjee, learned counsel for the petitioner wife submits that the order passed by the Court below on 18.10.2023 allowing the Revision petition filed by the husband respondent herein whereby and wherein, the order dated 29.07.2021 passed by the learned SDJM, Kamalpur was modified reducing the maintenance amount from Rs.15,000/- to Rs.11,000/- per month is very much illegal, arbitrary and against the law. He further submits that learned Court below failed to consider the hardships suffered by the wife. Learned counsel, therefore, urges this Court to set aside the impugned order dated 18.10.2023 passed by the learned Court below.

[6] On the other hand, Ms. P. Chakraborty, learned counsel for the respondent No.1 (husband) opposes the submission made by the learned counsel for the petitioner wife. She submits that the award of maintenance ordered by the Court below should not be enhanced further as the respondent husband has other responsibilities to his family.

[7] Heard the submissions made by the learned counsel for the parties.
Perused the record.

[8] On perusal of record, it is seen that the wife by filing an application being Case No. CrI. Misc. 19 of 2020 approached the SDJM, Kamalpur, Dhalai for enhancement of maintenance allowance from Rs.6,000/- to Rs.13,000/- per month for her alongwith her minor son and the SDJM, Kamalpur, Dhalai by his order dated 29.07.2021, enhanced the maintenance amount from Rs.6,000/- per month to Rs.15,000/- per month. Thereafter, aggrieved by the said order of learned SDJM, the husband filed an application before the Court of Addl. Sessions Judge, Dhalai, Kamalpur vide case No. Criminal (Revision) 09 of 2022 for reduction of the maintenance of award ordered by the SDJM, Kamalpur. Finally, learned Addl. Sessions Judge, Dhalai, Kamalpur by the impugned order dated 18.10.2023, modified and reduced the award of maintenance ordered by the SDJM, Kamalpur from Rs.15,000/- per month to Rs.11,000/- per month.

[9] Having considered the facts and circumstances of the case, this Court is of the view that since, the petitioner wife on earlier occasion approached SDJM, Kamalpur claiming maintenance of Rs.13,000/- per month from her husband, it will be appropriate if the monthly maintenance as assessed by the Court below to the wife be enhanced to Rs.13,000/- per month instead of Rs.11,000/- per month and accordingly, the same is ordered. However, it is made clear that all other findings as assessed by the Court below shall remain unaltered.

Thus, this criminal revision petition is allowed to the extent as indicated above and accordingly, the same is disposed of.

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

JUDGE

Sabyasachi. G.

SABYASACHI
GHOSH

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