

GAHC010015452014



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Rev.P./413/2014

MONOJIT BHATTACHARJEE
S/O SRI MRIGANKA BHATTACHARJEE, IIT CAMPUS, QUARTER NO. B- 44
P.O. and P.S. NORTH GUWAHATI, DIST. KAMRUP, ASSAM. PIN- 781039.

VERSUS

SMTI NANDITA BHATTACHAREE
W/O SRI MONOJIT BHATTACHARJEE C/O SRI JADAB CHAKRABORTY,
PREETI BHAWAN, RAILWAY GATE NO.2, OPPOSITE BOC, P.O. and P.S.
LANKA, DIST. NAGAON, ASSAM. PIN- 782446.

Advocate for the Petitioner : MR.R HAZARIKA

Advocate for the Respondent :

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

Date of judgment & order : 04.03.2024

JUDGMENT & ORDER

Heard Mr. J. Roy, learned Senior Counsel assisted by Ms. B. Saha, learned counsel for the petitioner. Also heard Ms. P. Adhikari, learned counsel for the respondent.

2. This is an application under Sections 397/401 *read with* Section 482 of the Code of Criminal Procedure against the judgment and order dated 30.06.2014, passed by the learned Additional District & Session Judge, Hojai, Sankardev Nagar, in C. A. No. 24(N)/2014, whereby the appeal preferred by the petitioner against the judgment and order dated 26.02.2014, passed by the learned Judicial Magistrate 1st Class, Hojai in Misc Case No. 03/2012, was dismissed on the point of limitation.

3. It is to be mentioned here that vide the impugned judgment and order dated 26.02.2014, the learned Judicial Magistrate 1st Class, Hojai in Misc Case No. 03/2012, under Section 12 of the PWDV Act, had directed the petitioner to pay Rs. 6,000/- per month to the respondent and was also directed to return some stridhan articles and also to pay compensation of Rs. 80,000/- along with Rs. 1,00,000/- towards maintenance of his daughter with further direction to clear all the arrear of interim maintenance.

4. Mr. J. Roy, learned Senior Counsel for the petitioner, has submitted that during the pendency of this revision petition, a Division Bench of this Court in Mat. App. No. 38/2017, vide order dated 22.03.2018, has allowed the divorce between the parties and also directed the present petitioner to deposit Rs. 12,000/- per month as permanent alimony to the respondent on the basis of a joint application filed by the parties. However, it is submitted that the learned Judicial Magistrate 1st Class, Hojai had directed the petitioner to pay Rs. 1,00,000/- as maintenance in lump sum for his daughter and Rs. 6,000/- as house rent per month to the respondent vide judgment and order dated 26.02.2014, which has been merged in the order passed by the Division Bench of this Court on 22.03.2018 as the said order was passed on the basis of joint application filed in terms of mutual settlement arrived between the parties. A copy of the said judgment & order dated 22.03.2018 of the Division Bench of this Court passed in Mat. App. No. 38/2017 is also annexed along with the petition.

5. Further, it is submitted by Mr. J. Roy, learned Senior Counsel for the petitioner, that the petitioner used to pay the maintenance to the daughter in different amounts as and when it is required and he also submitted statement showing the payment made by the petitioner to his daughter on various dates. Accordingly, it is submitted by the learned Senior Counsel that on the basis of the order passed by the Division Bench of this Court in Mat App. No. 38/2017, the maintenance allowance in lump sum, which was directed to pay vide order dated 26.02.2014, may be waived in view of order passed by the Division Bench of this Court in Mat App. No. 38/2017.

6. It is seen that vide order dated 09.02.2024, the learned counsel appearing for the respondent was directed to seek instructions from the respondent in regards to payment of Rs. 12,000/- per month as permanent alimony as per direction of the Division Bench of this Court in Mat App. No. 38/2017. Today, the learned counsel appearing on behalf of the respondent, Ms. P. Adhikari, has submitted that the respondent has already agreed to the order passed by the Division Bench of this Court in Mat App. No. 38/2017 and in terms of settlement arrived at between the parties, the respondent has agreed to receive Rs. 12,000/- per month towards the permanent alimony.

7. In view of the settlement arrived at between the parties and also considering the judgment and order dated 22.03.2018, passed by the Division Bench of this Court in Mat App. No. 38/2017, this Court is of the view that it is a fit case to be disposed of on the basis of settlement arrived at between the parties as well as the joint application filed by the petitioner and the respondent.

8. Accordingly, the judgment and order dated 30.06.2014, passed by the learned Additional District & Session Judge, Hojai, Sankardev Nagar, in C. A. No. 24(N)/2014, which was dismissed on the ground of limitation, and the judgment and order dated 26.02.2014, passed by the learned Judicial Magistrate 1st Class, Hojai in Misc Case No. 03/2012, are hereby set aside and quashed. However, the petitioner is hereby directed to pay maintenance allowance of Rs. 12,000/- per month regularly as agreed to by the parties and also in terms of the order passed by the Division Bench of this Court in Mat App. No. 38/2017. Further, the

petitioner is also hereby directed to pay the arrear maintenance allowance amount, if any.

9. In terms of above, this Criminal Revision Petition stands disposed of.

JUDGE

Comparing Assistant