

GAHC010041612017



2024:GAU-AS:12140

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

Case No. : Crl.Pet./793/2017

FULAN MANISH RABHA
S/O. LT. HAREN CHANDRA RABHA, R/O. VILL. MAZUBORGAON, P.S.
DUDHNOI, DIST. GOALPARA, ASSAM. PIN-783124.

VERSUS

JONAKI RABHA
W/O. FULAN MANISH RABHA, D/O. LT. DHARANI KANTA RABHA, R/O.
VILL. MAGHU SALMARA, P.S. LAKHIPUR, DIST. GOALPARA, ASSAM. PIN-
783129.

Advocate for the Petitioner : MR.B C DEKA, MS.U HAZARIKA,MR.H DAS

Advocate for the Respondent : MS. DEBASHREE SAIKIA, AMICUS CURIAE, MS D SAIKIA
(Amicus Curiae)

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

02.12.2024

1. Heard Mr. H. Das, learned counsel for the petitioner. Also heard Mr. A. Ikbai, learned counsel for the respondent.

2. This criminal petition under Section 482 of the Cr.P.C., 1973, is filed assailing an order dated 01.10.2016 passed by the learned Munsiff No. 2 Cum (Judicial Magistrate 1st Class), Goalpara in M.R.C. Case No. 28/2015 under Section 125 of Cr.P.C., whereby the petitioner husband was ordered to pay a monthly maintenance allowance at the rate of Rs. 1500/- to the respondent wife. The further challenge is a judgment dated 16.08.2017 passed by the learned Sessions Judge, Goalpara in Criminal Revision No. 09/2017, whereby the judgment of the learned Judicial Magistrate 1st Class, Goalpara was affirmed.
3. The respondent wife filed the M.R.C. Case No. 28/2015 under Section 125 of Cr.P.C. seeking maintenance of Rs. 25,000/- per month. The petitioner husband contested the aforesaid proceeding. Though he admitted the fact as regards their marriage and took a stand that the respondent never attained puberty and such fact was concealed by the respondent wife and therefore, there no child was born to their marriage. Accordingly, a suit was also filed by the petitioner husband seeking divorce, however, nothing was placed before the Court as regards finality of the said title suit.
4. The fundamental case of the petitioner projected before the learned Magistrate is denial of the allegation in total that the wife could not maintain herself and that she is not having any source of income and also the statement of the wife that the petitioner is having sufficient income including rubber cultivation over 4 Bighas of land and having also rice cultivation, were denied.
5. After perusal of the material available on record including the evidence adduced by the respondent wife as well as the husband, the learned trial Court came to a conclusion that the husband is an able bodied person and he has not provided any kind of maintenance to the wife. It was also concluded that nothing has been laid by the husband that he had provided maintenance to his wife. It

was also considered that during cross-examination, the husband admitted that he has not provided any maintenance to his wife since the time, she left his house. Such determination was also challenged in the Criminal Revision before the learned Sessions Judges, Goalpara as recorded hereinabove.

6. The learned Sessions Judge, Goalpara, after hearing the parties and re-appreciating the evidence came to a conclusion that no wrong has been committed by the learned trial Court below.
7. This Court has also perused the material available on record and after perusal of the same, this Court is in total agreement with the determination made by the court below which are based on sound reasoning. In the considered opinion of this Court and as discussed herein above, the learned Courts below had duly appreciated the evidence on record and the conclusion arrived at on the basis of such appreciation of evidence cannot be termed as a decision which could not have been arrived at on the basis of evidence available on record. This Court has also not found anything as regards as patent defect or jurisdiction of law in the both the judgments. The learned counsel has also not been able to show any non compliance of any provisions of law or that the findings recorded is based on no evidence or that the material evidence has been ignored or that irrelevant evidence has been taken note of.
8. In view of the aforesaid, the present criminal petition lacks merit. Accordingly, same stands dismissed.

JUDGE

Comparing Assistant