

GAHC010163772024



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

Case No. : Crl.Pet./280/2023

MANASH GOGOI
S/O SRI JYOTISH GOGOI
R/O NO. 2
DA-GAON
BETBARI
P.O. MITHAPUKHURI
P.S. SIVSAGAR
DIST. SIVASAGAR
ASSAM

VERSUS

SWAPNA DAS GOGOI
W/O SRI MANASH GOGOI
R/O BILOTIA MAJGAON
P.S. DERGAON

DIST. GOLAGHAT
ASSAM
PIN-785614

Advocate for : MR. K BORUAH
Advocate for : R L CHUTIA appearing for SWAPNA DAS GOGOI

**BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

12.09.2024

Heard Mr. M. Alom, learned counsel for the petitioner and Mr. R. L. Chutia, learned counsel for the sole opposite party.

2. In an application filed under Section 125 CrPC by the sole opposite party against the petitioner the learned Sub-Divisional Judicial Magistrate (S), Golaghat by Final Order dated 29.11.2021 passed in Misc. Case No. 83/2018, directed the petitioner to pay a monthly maintenance of Rs. 8000/- per month to the opposite party from the date of filing of the said application under Section 125 CrPC, i.e., 28.11.2018 and further directed the petitioner to clear the arrears of payment of interim maintenance, if any.

3. Aggrieved with the said Final Order of the learned SDJM (S), Golaghat dated 29.11.2021 the petitioner has preferred this Criminal Petition, amongst others, to quash the said order of the learned SDJM (S), Golaghat dated 29.11.2021 passed in Misc. Case No. 83/2018.

4. Notice in this case was issued on 13.06.2023.

5. The Hon'ble Supreme Court in the case of *Rajnish Vs. Neha*, reported in (2021) 2 SCC 324 decided on 04.11.2020 have laid down the law for consideration of the amount of maintenance under Section 125 CrPC and also the process of assessment/determination of such maintenance payable to the aggrieved party including the interim maintenance payable to such aggrieved party.

6. In the case in hand, it is seen that the learned SDJM (S), Golaghat while deciding the Misc. Case No. 83/2018 preferred by the sole opposite party under Section 125 CrPC by the Final Order dated 29.11.2021 did not consider the judgment and the directions issued by the Hon'ble Apex Court in the said case of *Rajnish* (supra).

7. In view of the above, the Final Order dated 29.11.2021 passed by the learned SDJM (S), Golaghat in Misc. Case No. 83/2018 filed by the sole opposite party being not in inconformity with the judgment of the Hon'ble Apex Court in the said case of *Rajnish* (supra) is hereby set aside and quashed and the matter is remanded back to the Court of the learned Sub-Divisional Judicial Magistrate (S), Golaghat for a fresh consideration, who in turn shall dispose of the said Misc. Case No. 83/2018 under Section 125 CrPC preferred by the sole opposite party in accordance with law.

8. Till such Final Order to be passed by the learned Sub-Divisional Judicial Magistrate (S), Golaghat in said Misc. Case No. 83/2018, the petitioner/2nd party shall pay a monthly interim maintenance of Rs. 6000/- to the sole opposite party/1st party in her bank account every successive Gregorian calendar month within the first ten days, depositing the receipt of such payment before the Court of the learned Sub-Divisional Judicial Magistrate (S), Golaghat in said Misc. Case No. 83/2018.

9. In default of payment of such interim maintenance by the petitioner to the sole opposite party, she shall approach the Court of the learned Sub-Divisional Judicial Magistrate (S), Golaghat in Misc. Case No. 83/2018 and in turn the said Magistrate shall do the needful in accordance with law.

10. With the above observations and directions, this criminal petition stands disposed of.

JUDGE

Comparing Assistant