

GAHC010061472024



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

Case No. : Crl.Rev.P./120/2024

KALPA JYOTI BARUAH
S/O BAPU RAM BARUAH
R/O VILL- NIZ HAJO
P.O. AND P.S. HAJO
DIST. KAMRUP, ASSAM
PIN-781102

VERSUS

PUJA DAS
D/O SUBAL DAS
R/O VILL- NIZ HAJO
BEZTOLA
P.O. AND P.S. HAJO
DIST. KAMRUP, ASSAM
PIN CODE-781102

Advocate for the Petitioner : MS. T SOM

Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA**

ORDER

27.03.2024

Heard Ms. T Som, learned counsel fo-r the petitioner.

By this application filed under Section 397 read with Section 401 of the CrPC, the petitioner, Sri Kalpa Jyoti Baruah, has challenged the order dated 07.02.2024 passed by the learned Principal Judge, Family Court No. 2, Kamrup (M), Guwahati in Ex. (Crl) Case No. 03/2022 in F.C. (Crl.) Case No. 40/2020.

The petitioner being the husband of the respondent was directed to pay maintenance to his wife but he failed to pay. Therefore, the petitioner was sentenced to undergo imprisonment until payment of the arrear of the maintenance allowance.

Section 125 (3) of the CrPC prescribes that such a person may be sentenced to undergo imprisonment for maximum period of one month only or until payment if sooner made.

On the face of the record, the impugned order is bad in law. Therefore, the impugned order dated 07.02.2024 passed by the learned Principal Judge, Family Court No. 2, Kamrup (M), Guwahati in Ex. (Crl) Case No. 03/2022 in F.C. (Crl.) Case No. 40/2020 is modified.

Accordingly, the direction directing the petitioner for imprisonment until payment of the arrear of maintenance allowance is set aside. The

petitioner is directed to pay $\frac{1}{4}$ th of the total arrear amount within a period of 1(one) month from today.

The warrant for imprisonment shall be recalled.

With the above, the criminal revision petition is disposed of.

JUDGE

Comparing Assistant