

GAHC010086092021



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

Case No. : Crl.Rev.P./158/2021

AHMED MUSA LASKAR
S/O LATE ISMAIL ALI LASKAR
VILL- NITAINAGAR, P.O. NITAINAGAR, P.S. AND DIST. HAILAKANDI,
ASSAM

VERSUS

AYESHA BEGUM LASKAR @ SHEULI LASKAR
D/O NAZRUL AHMED LASKAR
HAILAKANDI, TOWN WARD NO. XI, P.O. RATANPUR ROAD, P.S. AND DIST.
HAILAKANDI, ASSAM

2:THE STATE OF ASSAM
REP. BY PP
ASSA

Advocate for the Petitioner : MR. A M BARBHUIYA

Advocate for the Respondent : MR. A H ALAMGIR (R-1)

BEFORE

HON'BLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

12.06.2024

Heard Mr A M Barbhuiyan, learned counsel for the petitioner. Also heard Mr A H Alamgir, learned counsel for the respondent No. 1 and Mr B B Gogoi, learned Additional Public Prosecutor for the respondent State.

2. It is submitted by the learned counsel for both the sides that this case may be remanded back to the learned Chief Judicial Magistrate, Hailakandi, as they have not filed the statements of the assets and liabilities as mandated by the decision of Hon'ble the Supreme Court in ***Rajnesh –vs- Neha and Another;*** reported in (2021) 2 SCC 324,

3. The petitioner has filed this application under Section 482, read with Sections 397/401 of the Code of Criminal Procedure, 1973, challenging the Judgment and Order dated 31.03.2021, passed by the learned Additional Sessions Judge, Hailakandi, dismissing the Criminal Appeal No. 51/2019, which was preferred by the petitioner against the Judgment and Order dated 02.09.2019, passed in connection with MRDV Case No. 162/2013, wherein the learned Chief Judicial Magistrate, Hailakandi, directed the petitioner to pay monthly maintenance of Rs. 10,000/- to the respondent No. 1, an amount of Rs. 22,830/- as medical expenses, an amount of 3,000/-as monthly rent, an amount of Rs. 15,000/- as cost of proceeding and such other orders. This Judgment and Order was upheld by the learned Additional Sessions Judge, Hailakandi, in Criminal Appeal No. 51/2019, vide order dated 31.03.2021.

4. It is submitted on behalf of the petitioner that before the order dated 31.03.2021 was passed by the learned appellate Court in Criminal Appeal No. 51/2019, Hon'ble the Supreme Court in ***Rajnesh (supra)*** on 04.11.2020, has observed that Affidavits disclosing Assets And Liabilities have to be annexed in cases of enforcement/execution of orders of maintenance under Section 20 (6) of the Domestic Violence Act also.

5. Thus, it appears that while dealing with the issue of quantum of maintenance, none of the Courts below have considered the direction issued by the Hon'ble Supreme Court in the case of ***Rajnesh (supra)***.

6. The learned Advocates for both the parties have submitted that the parties have never filed any Affidavit of Disclosure of Assets and Liabilities before the learned Court below indicating their financial liabilities and income, as provided in Part-B –III of the Judgment in the case of ***Rajnesh (supra)***. It is agreed by the learned counsel for both the sides that the matter may be remanded to the court of learned Judicial Magistrate First Class, Hailakandi to decide the quantum of maintenance afresh, after affording an opportunity to the parties to file their Affidavit of Disclosure of Assets and Liabilities, by setting aside the impugned judgment and orders. The learned counsel for both the sides have also relied on the decision of this Court in ***Anwar Hussain Mazumder –vs- Ramecha Begom Laskar***, in Criminal Petition No. 358 of 2021, decided on 18.08.2022.

7. In view of the above, this Court deems it fit and proper to set aside the impugned judgment and order, dated 31.03.2021, passed by the learned Additional Sessions Judge, Hailakandi in Criminal Appeal No. 51/2019, and judgment and order dated 02.09.2019, passed by the learned Chief Judicial Magistrate, Hailakandi in MRDV Case No. 162/2013, and to direct the parties to appear before the learned Chief Judicial Magistrate, Hailakandi on 15.07.2024, and to file their Affidavit of Disclosure of Assets and Liabilities indicating their financial liabilities and income, and thereafter, the learned

Chief Judicial Magistrate shall proceed to decide the quantum of maintenance upon their Affidavit of Disclosure of Assets and Liabilities, after hearing both the parties.

8. The interim maintenance of Rs. 5,000/- granted by the learned trial Court in favour of the respondent No. 1, shall continue, till the final disposal of the proceeding of the MRDV Case No. 162/2013 or till any final order is passed in connection with the case.

9. In terms of above, this criminal petition stands disposed of.

10. Stay granted, if any, stands vacated.

JUDGE

Comparing Assistant