

GAHC010126682014



2024:GAU-AS:10884

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

Case No. : Crl.Rev.P./392/2014

DWIJENDRA LAL DAS
S/O SRI SRISH CHANDRA DAS R/O VILL and P.O. NIJ JOYANAGAR NOYA
GRAM, P.S. SILCHAR DIST. CACHAR, ASSAM.

VERSUS

SMTI BIVA DAS
W/O SRI DWIJENDRA LAL DAS D/O LT. MANORANJAN DAS PRESENTLY
RESIDING AT C/O BADAL DUTTA, K.C. CHUTIA, LANE ASOMIYA BASTI,
TARAPUR P.S. SILCHAR, DIST. CACHAR, ASSAM.

Advocate for the Petitioner : MR.B P SINHA, MS.N DAS

Advocate for the Respondent : ,

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

08.11.2024

1. None appears for the petitioner on call.
2. The present petition is filed under Section 401 read with Section 397 and 482 of the Criminal Procedure Code, 1973 assailing the Judgment and Order dated

24.07.2014 passed by the learned Principal Judge, Family Court, Cachar, Silchar in case No. FC(Crl.)/138/2013, whereby a maintenance of Rs. 3000/- was awarded in favour of the respondent to be paid by the petitioner herein and for the minor daughter of the parties of Rs. 3000/-.

3. Perused the materials available on record. Also perused the judgment passed by the learned trial court below.
4. From the perusal of the material available on record, it is seen that the parties contested the proceeding and adduced evidence in support of their claim. The present petitioner had also adduced evidence as DW-1.
5. After framing the point of determination, the learned Court below considered the evidence of the witnesses as well as the material evidence adduced by the parties and concluded that the present petitioner has refused/neglected to maintain the wife and his minor daughter even after having sufficient means and at the same time it is also concluded considering the material evidence that the wife was unable to maintain herself and her minor daughter.
6. While coming to such conclusion, the learned trial Court below elaborately dealt with the evidence of PW-1, (the wife), PW-2 (one relative of the PW-1). According to the learned trial Court their evidences remain unshaken during the cross-examination and they have been able to establish the aforesaid point. While considering the evidence of DW-1 and DW-2, the learned trial Court concluded that through the evidence of DWs, it is established that there were certain disputes between the husband and the wife and a suit for restitution of conjugal right was filed and that the DW-2 and DW-3 tried to pursued the parties to settle the matter, but failed and the parties had started living separately, however, same is not willful on the part of the respondent wife. It is also the conclusion of the learned trial Court, that defence has failed to elicit anything from the

witnesses. Thereafter, the aforesaid conclusion was arrived at and accordingly, the maintenance was awarded.

7. While considering the quantum of maintenance, the learned trial Court below also took note of the monthly income of the petitioner i.e. Rs. 23,000/- per month and his net income of Rs. 21,024/- which was admitted during the course of the cross-examination and therefore, the learned trial Court concluded that an amount of Rs. 3000/- in favour of the respondent wife and an amount of Rs. 3000/- as maintenance of the minor daughter shall be a reasonable amount of maintenance.
8. The object of revisional power of this Court under Section 397 Cr.P.C. is to set right a patent defect or an error of jurisdiction or law. Such power can be exercised where the decision under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely. It is equally well settled that a revisional jurisdiction of High Court should not be exercised in a routine manner. The Hon'ble Apex Court in **Chandra Babu vs State** reported in **2015 (8) SCC 774** held that normally revisional jurisdiction should be exercised in a question of law however, when factual appreciation is involved, then it must find place in the class of cases resulting in a perverse finding. The Supreme Court went to say that the power is required to be exercised so that justice is done and there is no abuse of power by the Court.
9. After perusal of the aforesaid judgment, this Court is of the view that the conclusion arrived at by the learned trial Court cannot be held to be illegal or without jurisdiction or there is any perversity in this matter. This Court is in agreement with the findings recorded by the court below which are based on sound reasoning. In the considered opinion of this Court and as discussed herein above, the learned Court below has 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 not found anything as regards as patent defect of jurisdiction or law. The learned counsel has not also been able to show non compliance of any provisions of law or that the findings recorded is based on no evidence or that material evidence is ignored or that judicial discretion was exercised arbitrarily or perversely. The conclusion arrived at on the basis of the evidence on record cannot be said to be a conclusion which a reasonable man could not have arrived at on the basis of the material evidence available on record.

10. That being the position, this Court is not inclined to exercise its revisional jurisdiction to interfere with such a reasoned decision. Accordingly, the present criminal revision petition stands dismissed.
11. Interim order, if any, stands vacated.

JUDGE

Comparing Assistant