

GAHC010147782022



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

Case No. : Crl.Rev.P./19/2024

ANITA RAY @ ANITA DAS
W/O MAHENDRA CH. RAY, R/O VILL.-BAKHOLGAON PT.-II, P.O.-NORTH
SALMARA, ABHAYAPURI, DIST.-BONGAIGAON, ASSAM, PIN-783384.

VERSUS

MOHENDRA CH. RAY AND ANR.
S/O LATE DHULA RAM RAY, R/O VILL.-PACHDUAR (WARD NO. III), P.O.
AND P.S.-ABHAYAPURI, DIST.-BONGAIGAON, ASSAM, PIN-783384.

2:THE STATE OF ASSAM
REP. BY THE PP
ASSAM

Advocate for the Petitioner : MR. M U MONDAL

Advocate for the Respondent : MR. P P MEDHI

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN

ORDER

Date : 16.02.2024

Heard Mr. A. Ahmed, learned counsel for the petitioner and Mr. P.P. Medhi, learned counsel for the respondent No. 1. Also heard Mr. R.J. Baruah, learned Addl. Public Prosecutor for the respondent No. 2.

2. In this petition under Sections 401/397 of the Cr.P.C., read with Section 482 of the Cr.P.C., the petitioner has put to challenge the order dated 09.07.2019, in M.R. Case No. 02/2018, passed by the Court of learned Judicial Magistrate 1st Class, North Salmara, Abhayapuri.
3. It is to be noted here that vide impugned order dated 09.07.2019, the learned Court below has dismissed the petition filed by the petitioner seeking enhancement of maintenance amount from Rs. 3,000/- to Rs. 15,000/- per month.
4. It is submitted at the bar that this matter may be remanded back to the learned Court below by setting aside the impugned order, so as to decide the same afresh in the light of affidavit which the parties want to file, disclosing their assets and liabilities before the learned Court below, in view of the judgment of the Hon'ble Supreme Court in *Rajnish Vs. Neha & Anr.*, reported in (2021) 2 SCC 324.
5. In view of the above and as agreed by learned Advocates of both sides, the impugned order dated 09.07.2019 stands set aside and the matter is remanded back to the learned Court below to afford both parties an opportunity to file an affidavit, disclosing their assets and liabilities, in view of the decision of the Hon'ble Supreme Court in *Rajnish (supra)*, and thereafter, to hear and decide the matter afresh, preferably, within a period of one month from today.
6. In terms of above, this petition stands disposed of.

JUDGE

Comparing Assistant