

GAHC010154762024



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

Case No. : Crl.Pet./992/2024

JALEM UDDIN
S/O- LATE LALCHAN ALI, R/O- VILL.- DHANBANDA, P.S. AND DIST.
BARPETA , ASSAM

VERSUS

SABIYA KHATUN
D/O- LATE KURJAT ALI, R/O- VILL.- DHANBANDA, PS. AND DIST.
BARPETA, ASSAM

Advocate for the Petitioner : MR. R BORA, MS R MEDHI

Advocate for the Respondent : ,

BEFORE
HONOURABLE MR. JUSTICE PARTHIVJYOTI SAIKIA

ORDER

Date : 16.08.2024

Heard Mr. R. Bora, the learned counsel appearing for the petitioner.

2. This is an application under Section 528 of BNSS, 2023 challenging the order dated 04.03.2024 passed by the Principal Judge, Family Court, Barpeta in F.C. (Crl.) No. 82/2022.
3. While staying with his own wife in the same house, the petitioner had gone to Delhi

for work. After that, the wife of the petitioner filed a petition before the Family Court, Barpeta u/s 125 of the Cr.P.C. praying for maintenance. None of the notices issued to the petitioners were served upon him.

4. Therefore, the court below passed an ex-parte order directing the petitioner to pay monthly maintenance of Rs. 3,000/- to the wife and an amount of Rs. 1,000/- each for her four children.

5. I have gone through the copies of the documents available in the record. I have also considered the submissions made by Mr. Bora.

6. This Court is of the opinion that no notice was served upon the present petitioner.

7. Therefore, the impugned order is bad in law.

8. Accordingly, the impugned order dated 04.03.2024 passed by the Principal Judge, Family Court, Barpeta in F.C. (Crl.) No. 82/2022 is set aside.

9. The petitioner shall be given an opportunity to contest the said case and after hearing both sides, the court below shall pass a fresh order in the petition filed by the wife of the petitioner. The petitioner shall be allowed to file the written statement.

The criminal petition stands disposed of.

JUDGE

Comparing Assistant