

GAHC010181012023



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

Case No. : Crl.Rev.P./538/2023

SAIFUL ISLAM
S/O GIASUDDIN, R/O VILL AND P.O.-BHAIRAGURI, DIST.-BARPETA,
ASSAM, PIN-781311.

VERSUS

MOYJAN NESSA AND ANR.
D/O ABDUL KHALEK, R/O VILL.-HACHARA, P.O.-BAGUDI, DIST.-BARPETA,
ASSAM, PIN-781311.

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

Advocate for the Petitioner : MR K BHUYAN

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

BEFORE
HONOURABLE MRS. JUSTICE MALASRI NANDI

ORDER

23.02.2024

Heard Mr. K Bhuyan, learned counsel for the petitioner. Also heard Mr. HA Ahmed, learned counsel for the respondent No.2.

This is an application under Sections 397/401 Cr.P.C for modification/alteration and/or quashing the impugned judgment dated 08.09.2022 in FC(CrI)No.366/2020 under Section 125 Cr.P.C passed by the learned Principal Judge, Family Court at Barpeta.

It is submitted by the learned counsel for the petitioner that the learned trial court while passing the impugned judgment dated 08.09.2022 has not taken into consideration the proposition of law laid down by the Supreme Court in *Rajnesh Vs. Neha and Another, reported in (2021) 2 SCC 324*, wherein it has been specifically held that affidavit of disclosures of assets and liabilities must be filed by both the parties in all maintenance proceedings, including pending proceedings before the Family Court/District Court/Magistrates Court concerned, as the case may be, throughout the country, which enables the Court to make an objective assessment of the quantum of interim maintenance. Therefore, the learned counsel for the petitioner prays that the matter may be considered afresh on the basis of the declaration of assets and liabilities furnished by the parties.

On the other hand, the learned counsel for the respondent No.1 being the wife, has submitted that the petitioner has not submitted any affidavit before the Court showing his assets and liabilities.

Admittedly, it appears from the record that the learned trial court did not take into account the proposition of law laid down in *Rajnesh Vs. Neha (supra)* at the time of passing of the impugned judgment dated 08.09.2022. Accordingly, without going into the merits of the case and considering the submissions of the learned counsel for the parties, this matter stands remanded back to the Family Court at Barpeta with a direction to allow both the petitioner and the respondent No.1 to file their respective affidavits showing their assets

and liabilities as per the proposition of law laid down by the Supreme Court in Rajnesh Vs. Neha (supra).

Accordingly, both the petitioner and the respondent No.1 shall appear before the learned court below within a period of 10(ten) days from today and the learned court below shall consider the matter and pass a reasoned order thereon in accordance with the proposition of law laid down in Rajnesh Vs. Neha (supra).

Criminal revision petition, accordingly, stands disposed of.

JUDGE

Comparing Assistant