

GAHC010163772024



undefined

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

Case No. : Crl.Pet./1295/2023

MANAB BHATTACHARJEE
S/O LATE JADABENDRA BHATTACHARJEE
R/O SHYAMAPRASAD ROAD

BADARPUR
P.O. BADARPUR
DIST. KARIMGANJ
ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
TO BE REP. BY THE LD. PP
ASSAM

2:SMT. SUPARNA ROY CHOUDHURY
W/O WRI MANAB BHATTACHARJEE

D/O LATE MUKUL ROY CHOUDHURY
R/O MOHAPRABHU COLONY MALUGRAM
P.O. SILCHAR

DIST. CACHAR
ASSAM

Advocate for : MR. A R BHUYAN
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR

**BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK**

ORDER

12.09.2024

Heard Mr. A. R. Bhuiyan, learned counsel for the petitioner and Ms. M. Bhattacharjee, learned counsel for the respondent No. 2. Also heard Ms. S. Jahan, learned Additional Public Prosecutor for the State/respondent No. 1.

2. In a petition filed under Section 125 CrPC by the respondent No. 2 against the petitioner the learned Principal Judge, Family Court, Cachar at Silchar by Judgment dated 26.09.2023 passed in FC (Crl.) Case No. 37/2021, directed the petitioner to pay a monthly maintenance of Rs. 7,500/- per month to the respondent No. 2 and Rs. 3,000/- to their minor son till attaining the age of majority, in total Rs. 10,500/- per month w.e.f. 26.09.2023.

3. Aggrieved with the said Judgment dated 26.09.2023 of the learned Principal Judge, Family Court, Cachar at Silchar passed in FC (Crl.) Case No. 37/2021, the petitioner has filed this criminal petition praying amongst others, to set aside and quash the judgment dated 26.09.2023 passed by the learned Principal Judge, Family Court, Cachar at Silchar in said FC (Crl.) Case No. 37/2021.

4. Notice in this case was issued on 12.12.2023. The respondent No. 2 has filed the connected Interlocutory Application being I.A. (Crl.) No. 490/2024 praying for a direction to the petitioner for payment of an amount of Rs. 10500/- as maintenance for her and their minor son and Rs. 30000/- for the cost of the proceeding of this criminal petition.

5. The Hon'ble Supreme Court in the case of *Rajnesh Vs. Neha*, reported in (2021) 2 SCC 324 decided on 04.11.2020 have laid down the law for consideration of the amount of maintenance under Section 125 CrPC and also the process of assessment/determination of such maintenance payable to the aggrieved party including the interim maintenance payable to such aggrieved party.

6. In the case in hand, it is seen that the Judgment dated 26.09.2023 passed by the learned Principal Judge, Family Court, Cachar at Silchar passed in FC (Crl.) Case No. 37/2021

under Section 125 CrPC is not in conformity with the said judgment of the Hon'ble Apex Court in the case of *Rajnesh* (supra) and the directions issued therein.

7. In view of the above, the impugned Judgment dated 26.09.2023 passed by the learned Principal Judge, Family Court, Cachar, Silchar passed in FC (Crl.) Case No. 37/2021 under Section 125 CrPC is hereby set aside and quashed and the matter is remanded back to the Court of the learned Principal Judge, Family Court, Cachar, Silchar for a fresh consideration, who in turn shall dispose of the said FC (Crl.) Case No. 37/2021 under Section 125 CrPC preferred by the respondent No. 2 in accordance with law.

8. Till such Final Order to be passed by the learned Principal Judge, Family Court, Cachar, Silchar passed in FC (Crl.) Case No. 37/2021, the petitioner shall pay a monthly interim maintenance of Rs. 5,000/- to the respondent No. 2 and Rs. 2,000/- to their minor son, in total Rs. 7,000/- per month in the bank account of the respondent No. 2 every successive month as per Gregorian calendar within the first ten days, depositing the receipt of such payment before the Court of the learned Principal Judge, Family Court, Cachar, Silchar passed in said FC (Crl.) Case No. 37/2021.

9. In default of payment of such total interim maintenance by the petitioner to the respondent No. 2, she shall approach the Court of the learned Principal Judge, Family Court, Cachar, Silchar passed in FC (Crl.) Case No. 37/2021 and in turn the said Court shall do the needful in accordance with law.

10. With the above observations and directions, this criminal petition stands disposed of.

JUDGE

Comparing Assistant