

GAHC010277842023



2024:GAU-AS:11294

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

Case No. : Crl.Rev.P./526/2023

KESHABANANDA BORAH
DR. RAMESH CH. BORAH,
RESIDENT OF HOUSE NO. 5, BAPUJINAGAR, BOHOTIYAGAON, PO TEOK,
DIST JORHAT, ASSAM 785006

VERSUS

SAYANIKA DEKA AND ANR
W/O SRI KESHABANANDA BORAH,
D/O KAUSHIK CH. DEKA,
RESIDENT OF HOUSE NO. 253, MOTHER TERESA ROAD, NEAR GEETA
MANDIR, PO AND PS NOONMATI, DIST KAMRUP M ASSAM 781020

2:THE STATE OF ASSAM
REPRESENTED BY PP ASSA

Advocate for the Petitioner : MR. I H SAIKIA, MR. K KALITA,MR K KASHYAB,MR. B BORAH

Advocate for the Respondent : PP, ASSAM, MR P CHOUDHURY (r-1),MS P SAIKIA (r-1),MR D TALUKDAR (r-1)

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 20.11.2024

Heard Mr. I. H. Saikia, learned counsel for the petitioner. Also heard Mr. D. Talukdar, learned counsel for the respondent No. 1 and Mr. D. P. Goswami, learned Additional Public Prosecutor for the State respondent.

2. This is an application under Section 397/401 *read with* Section 482 of the Code of Criminal Procedure praying for quashing the impugned order dated 29.09.2023, passed by the learned Principal Judge, Family Court-2, Kamrup(M), Guwahati in F.C. (CRL) Case No. 535/2021.

3. It is submitted by Mr. Saikia, learned counsel for the petitioner, that vide impugned order dated 29.09.2023, the learned Principal Judge, Family Court-2, Kamrup(M), Guwahati had directed the present petitioner to pay interim maintenance @ Rs. 10,000/- per month to the respondent No. 1 until further order/disposal of the case and thus, aggrieved with the said order, the present petition has been filed for setting aside and quashing of the said impugned order dated 29.09.2023 as the petitioner is not in a position to pay Rs. 10,000/- per month towards interim maintenance as on today. Further it is submitted that presently the petitioner is not having any source of monthly income and he is totally dependent on his parents and hence, he is not in a position to pay the interim maintenance @ Rs. 10,000/- per month to the respondent No. 1, as directed by the learned Principal Judge, Family Court-2, Kamrup(M), Guwahati.

4. Mr. Talukdar, learned counsel for the respondent No. 1, submitted in this regard that the present petitioner has taken those plea while submitting his written statement as well while producing the affidavit on assets and liabilities before the learned Principal Judge, Family Court-2, Kamrup(M), Guwahati. The learned Court below accordingly passed the order of interim maintenance only after perusal of the affidavit on assets and liabilities submitted by both sides. However, Mr. Talukdar submitted that the respondent No. 1 is ready to accept Rs. 8,000/- per month towards the interim maintenance till disposal of the case pending before the learned Principal Judge, Family Court-2, Kamrup(M), Guwahati. He further submitted that as the proceeding before the learned Court below has already been stayed by this Court vide order dated 11.12.2023, the parties are not in a position to adduce evidence or to file the relevant documents etc. before the Court.

5. In this context, Mr. Saikia, learned counsel for the petitioner, submitted that the petitioner is ready to pay Rs. 6,000/- per month towards interim maintenance as the petitioner is not in a position to pay Rs. 8,000/- or Rs. 10,000/- per month, as directed by the learned Court below.

6. After considering the submissions made by the learned counsels for the parties and without going into the merit of the case, this Court is of the opinion that Rs. 7,000/- per month may be just and reasonable amount at present towards the interim maintenance till disposal of the case pending before the learned Principal Judge, Family Court-2, Kamrup(M), Guwahati. Both the learned counsels appearing on behalf of the parties also agreed to the quantum of

interim maintenance @ Rs. 7,000/- per month.

7. Accordingly, the petitioner is hereby directed to pay Rs. 7,000/- per month to the respondent No. 1 as an interim maintenance w.e.f. December, 2024.

8. Consequently, the interim order passed earlier by this Court on 11.12.2023 stands vacated.

9. The criminal revision petition stands disposed of in terms above.

JUDGE

Comparing Assistant