

**HIGH COURT OF TRIPURA
AGARTALA**

Crl.Rev.P. No.04 of 2025

Sri Rajesh Ch. Saha, S/o Lt. Anil Chandra Saha of Kathaliya, South Mahesh Pur, P.O. Kathaliya, P.S. Jatrapur, District- Sepahijala, Tripura

.....Petitioner(s);

Versus

1. Smt. Tandrima Saha, W/o Sri Rajesh Chandra Saha, D/o Sri Benulal Saha

2. Arattika Saha, D/o Sri Rajesh Chandra Saha

Both are residing at:

South Maheshpur, P.O. Kathalia, P.S. Jatrapur, District- Sepahijala, Tripura.
(The respondent No.2 being a minor daughter she is to be represented by her mother, the respondent No.1 herein)

.....Respondent(s).

For Petitioner(s) : Mr. Kabrabam Dhirendra Singha, Advocate.

For Respondent(s) : Mr. Purusuttam Roy Barman, Sr. Advocate,
Mr. Kawsik Nath, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

25/04/2025

Heard Mr. Kabrabam Dhirendra Singha, learned counsel for the petitioner and Mr. Kawsik Nath, learned counsel for the respondents-wife and minor daughter.

2. Petitioner is the husband who has challenged the judgment dated 15.04.2024 passed in Criminal Misc.16 of 2021 by learned Family Court, Sonamura, Sepahijala Judicial District in a proceeding under Section 125 of the Cr.P.C. at the instance of the respondent No.1-wife and her minor daughter whereby the learned Court has directed the respondent/petitioner herein to pay a maintenance of Rs.7000/- per month to the petitioner No.1-wife and Rs.6000/- per month to the petitioner No.2-minor daughter; in total Rs.13000/- per month from the date of application for maintenance. The maintenance is to be paid by 7th day of every English calendar month. Earlier interim maintenance at the rate

of Rs.8000/- per month was provided. Therefore, the balance maintenance amount after deducting the interim maintenance earlier paid by the petitioner has to be paid in six monthly installments from the date of passing of the impugned judgment. Being aggrieved, the petitioner has preferred the instant revision petition under Section 397 of the Cr.P.C.

3. I have heard learned counsel for the parties and taken note of the materials placed from record.

Learned counsel for the applicant/petitioner had submitted that petitioner was drawing only Rs.14,499/- as net salary after statutory deductions and payment of EMIs for loans. Learned Family Court has failed to take into consideration the net income of the applicant after such statutory deductions and EMIs while awarding maintenance at the rate of Rs.13000/- per month in favour of the respondent-wife and the minor daughter. Petitioner faces genuine difficulty in paying the awarded amount every month.

However, during course of the submission today, learned counsel for the respondents has produced the salary certificate of the petitioner for the month of January, 2025 issued by the Drawing & Disbursing Officer, Deputy Superintendent of Police, Bishramganj, Sepahijala which reflects that his gross salary is Rs.52,525/-, and after statutory deductions of GPF, Group Insurance and P/Tax totaling Rs.18,008/-, the net payable amount is Rs.34,517/-. Learned counsel for the respondents also points out that learned Family Court has taken note at para 24 of the impugned judgment that despite number of opportunities granted, the opposite party/petitioner herein did not file any affidavit of assets and liabilities. He simply made a written objection that after deduction of

Rs.28,500/- from his gross salary, he gets Rs.14,499/- only per month which is not correct. Learned Family Court has also referred to several decisions of the Apex Court such as ***Rajnesh v. Neha and another*** reported in ***(2021) 2 SCC 324***, ***Shamima Farooqui v. Shahid Khan*** reported in ***(2015) 5 SCC 705***. It has also referred to the decisions rendered by the Punjab and Haryana High Court in the case of ***Seema and another v. Gourav Juneja*** reported in ***2018 SCC OnLine P&H 3045*** in a proceeding under Section 125 Cr.P.C. and also in the case of ***Mukesh Kumar v. Rekha Rani and another*** reported in ***2018 SCC OnLine P&H 7187***.

4. The learned Family Court has, drawing upon the ratio rendered in these decisions, held that the husband is required to financially support his spouse and children as it is his sacrosanct duty. He is required to earn money with physical labour, if he is able bodied. There is no escape route unless there is an order by the Court that the wife is not entitled to get maintenance on any legally permissible grounds. The learned Court has also taken note of the observations made in the cited judgments that it is only the statutory deductions that are made from the gross salary towards long term savings such as towards provident fund, Group Insurance, LIC premium, etc. which are permissible to be deducted for the purposes of computing his net salary while awarding maintenance and not payment of monthly installments for loans taken by the husband. The OP/petitioner herein is a government servant working as a Constable with the Tripura Police Department. The learned Family Court, therefore, rightly allowed the maintenance of Rs.7000/- per month to the wife

and Rs.6000/- per month to the minor daughter. The impugned judgment is well reasoned and therefore does not require any interference.

5. Mr. Singha, learned counsel for the petitioner, has not disputed the salary certificate produced by the respondents for January, 2025 which shows his net salary as Rs.34,517/- after statutory deductions. Learned counsel for the petitioner in reply however submits that petitioner would not be in a position to pay the arrears of maintenance after deducting the interim maintenance in six installments in six months period, as the total amount would be in the range of Rs.2,40,000/-. He therefore prays that the installments may be suitably extended.

6. I have considered the submission of learned counsel for the parties and taken note of the materials placed from record. I have also gone through the impugned judgment which is a well reasoned one.

Petitioner, no doubt, is a government employee who draws a gross salary of Rs.52,525/- per month as per the salary certificate for January, 2025 which could be only slightly less at the time of passing of the impugned judgment. After statutory deductions of Rs.18,008/-, he draws a net salary of Rs.34,517/-. He has not filed any affidavit containing statement of assets and liabilities as required in terms of the judgment rendered in the case of **Rajnesh v. Neha and another** (supra). The award of maintenance at the rate of Rs.7000/- per month to the wife and Rs.6000/- per month to the minor daughter as monthly maintenance cannot be said to be exorbitant or without any basis. Petitioner is an able bodied person, a government employee and has enough

sources of income. Therefore, the maintenance awarded at the rate of Rs.13000/- per month in total is well within the capacity of the petitioner to pay to enable the wife and the minor daughter to sustain themselves in a manner in which the wife was accustomed while staying in the matrimonial home. The learned Court has also examined the evidence adduced by the wife in the form of three witnesses including herself and two witnesses produced by the OP/petitioner herein. The learned Family Court has also found sufficient grounds for the wife to have stayed away from the matrimonial home on account of physical and mental torture which led to filing of a complaint before the Officer-in-Charge, Jatrapur Police Station. As such, this Court is satisfied that the learned Family Court has, after due consideration of the materials and evidence placed by the parties, rightly awarded a maintenance of Rs.7000/- per month to the wife and Rs.6000/- per month to the minor daughter effective from the date of application of maintenance. Therefore, this Court is not inclined to interfere in the quantum of maintenance awarded in favour of the respondents.

However, since the petitioner draws a net salary of Rs.34,517/-, it would be onerous for him to pay the arrears of maintenance approximately of Rs.2,40,000/- in six monthly installments which would come to Rs.40,000/- per month. In such a situation, this Court is inclined to enlarge the period for payment of arrears of maintenance to 24 months; that means the arrears of maintenance would be paid at the rate of Rs.10,000/- per month and the balance amount would be paid in the last month. This would be in addition to the current maintenance awarded by the impugned judgment.

7. The instant revision petition is disposed of in the aforesaid manner without interfering in the award of maintenance granted by the impugned order in favour of the respondents No.1 & 2 herein.

8. Pending application(s), if any, shall stand disposed of.

(APARESH KUMAR SINGH), CJ



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