

**HIGH COURT OF TRIPURA
AGARTALA**

Crl.Rev.P. No.03 of 2025

Sri Trideep Dey, S/o Sri Bijoy Bhushan Dey, Resident of House No.16, Santinagar, Adagodam, P.S. Fatasil Ambari, District- Kamrup(M), P.O. Odalbakra, Guwahati-78103, Assam

.....Petitioner(s);

Versus

1. Smt. Anwasha Dey, W/o Sri Trideep Dey, D/o Himanshu Bhusan Saha (Nantu Teacher)

2. Ms. Aaradhya Dey, D/o Sri Trideep Dey

Both are residents of College Road, Shiv Nagar, P.O. Agartala College, P.S. East Agartala, District- West Tripura.

.....Respondent(s).

For Petitioner(s) : Mrs. Ayantika Chakraborty, Advocate,
Mrs. Rashmi Bhattachajee, Advocate.

For Respondent(s) : Mr. Prasanta Kr. Pal, Advocate,
Mr. Saugat Datta, Advocate,
Ms. Maithi Majumder, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

14/05/2025

Heard Mrs. Ayantika Chakraborty, learned counsel for the petitioner and Mr. Prasanta Kr. Pal, learned counsel for the respondents.

2. The learned Family Court, West Tripura, Agartala has, by impugned judgment dated 22.03.2024 passed in Misc.610 of 2019 awarded maintenance of Rs.5,000/- and Rs.7,000/- per month in favour of respondent No.1-wife and respondent No.2-minor daughter respectively with effect from the date of institution of the case i.e. 03.10.2019.

3. Learned counsel for the petitioner at the outset has made a statement that the husband does have any objection to the maintenance of Rs.7,000/- per month awarded in favour of the minor daughter. However, he has strong objection to the maintenance of Rs.5,000/- per month awarded in

favour of the respondent No.1-wife since the learned Trial Court has also found on the statement of PW 1-wife that she is doing teaching job in a private school namely Auxilium Girls' H.S. School, Agartala and earning salary.

4. Both the parties have not filed any affidavit as to the statement of their assets and liabilities. Though the petitioner's wife and the minor daughter urged that the husband earns Rs.60,000/- per month as an employee of a private insurance company; but in the written objection, the husband took a plea that his salary is Rs.17,000/- only and that the wife is earning Rs.35,000/- per month as a teacher in a reputed missionary school. Admittedly though OP filed his affidavit-in-chief, but he could not examine himself in the witness box. No documents were submitted regarding the salary of the husband/petitioner herein or the respondent No.1-wife before the learned Trial Court. In such circumstances, the learned Trial Court made an assessment of the earning of the husband as Rs.50,000/- per month and awarded the monthly maintenance of Rs.5,000/- and Rs.7,000/- to the wife and the minor daughter respectively. Learned counsel for the petitioner, therefore, submits that if the assessment of the income of the husband was made only on assertions made by PW 1-wife, the learned Family Court ought to have given due regard to the earning of the wife as a teacher in Auxilium Girls' H.S. School, Agartala. Therefore, there was no reason for the learned Family Court to allow maintenance to the wife also. Moreover, petitioner has met with an accident and therefore he has resigned from the job since 30.10.2023 itself. Therefore, the impugned order as regards award of maintenance of Rs.5,000/- per month in favour of the wife with effect from the date of the petition may be interfered with.

5. *Per contra*, learned counsel for the respondents Mr. Prasanta Kr. Pal has strongly opposed the prayer. He submits that the wife is doing a job in a private school and that too in the primary section. She at best gets a salary in the range of Rs.12,000/- to Rs.14,000/- per month which is not commensurate with the status of living she was used to in the matrimonial home with the husband who earns a substantial salary in the range of Rs.60,000/- per month as an employee of the insurance company. It is, therefore, submitted that the learned Family Court, after taking into note the materials on record and the evidence adduced by the petitioner-wife who is living in separation since October, 2014 due to incidents of torture and also the judgment rendered by the Apex Court, rightly held that the monthly earning of the petitioner cannot be said to be sufficient to meet all her expenses of daily amenities as well as the current educational expenses of her minor daughter who is studying in a private school. Therefore, it awarded maintenance to the wife also at the rate of Rs.5,000/- which is less than the maintenance awarded to the minor daughter taking into account her earning. Therefore, the impugned order does not warrant any interference.

6. On consideration of rival submission of the parties and the relevant materials culled out from the record and after perusal of the impugned judgment, this Court finds that the factum of employment of the wife as a teacher in a private school and that of the husband in an insurance company is not in dispute, though none of the parties have adduced their salary certificate or filed any affidavit containing the statement of their assets and liabilities. In this background, if the learned Family Court has assessed the income of the

husband as Rs.50,000/- per month, the learned Family Court ought to have also assessed the income of the wife from her job in a private school as per her own statement made as PW 1. The husband does not have any objection to the maintenance awarded at the rate of Rs.7,000/- per month in favour of the minor daughter to meet her educational needs and other daily expenses. Principles governing the grant of maintenance provide that no spouse should be allowed to make a profit out of the maintenance awarded in his/her favour. If the wife is an earning member as a teacher in a private school and has obviously been able to maintain her daily expenses, it would be proper that maintenance commensurate with the living standards which she was ordinarily used to in the matrimonial home is awarded, over and above her own income, if at all, necessary. This factor however has not been kept into account by the learned Family Court while awarding maintenance at the rate of Rs.5,000/- per month in her favour.

7. This Court is, therefore, of the view that in the aforesaid facts and circumstances, the maintenance awarded in favour of the wife should be in the range of Rs.3,000/- per month instead of Rs.5,000/- per month awarded by the learned Family Court. In effect, the total maintenance awarded in favour of the wife at the rate of Rs.3,000/- per month and the minor daughter at the rate of Rs.7,000/- per month i.e. Rs.10,000/- per month would be just and proper in the facts and circumstances of the case. Other condition regarding manner of payment of current or arrears of maintenance are not touched upon by this Court.

8. The impugned order is interfered with in the manner and to the extent indicated hereinabove. The instant revision petition is disposed of.

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

(APARESH KUMAR SINGH), CJ



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