

**HIGH COURT OF TRIPURA
AGARTALA**

Crl. Rev. P. No.5 of 2025

Shri Bijoy Chandra Debnath, son of Shri Jadu Gopal Debnath, resident of Village – East Nalchar, Kaillamura, P.O. Nalchar, Pin-799115, presently residing at C/o Shri Nepal Saha, Nagerjala, Near Modern Club, Agartala, West Tripura, Pin-799003.

.....Petitioner(s);

Versus

Smt. Payel Debnath, Wife of Sri Bijoy Chandra Debnath, D/o Lt. Pradip Kumar Debnath, resident of Vill-Jangalia, P.O-Bishalgarh, District-Sepahijala Tripura, Pin-799102.

.....Respondent(s)

For Petitioner(s) : Mr. Kousik Roy, Advocate,
Mr. Udai Sankar Singha, Advocate,
Mr. Rohan Chakraborty, Advocate,
Ms. Debdrita Roy, Advocate.

For Respondent(s) : None.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

12/02/2025

Petitioner-husband is aggrieved by the rejection of his application under Section 127 of the Cr.P.C. for modification of the interim maintenance of Rs.8,000/- awarded by the learned Addl. Judge, Family Court, Agartala, West Tripura during pendency of the main maintenance case. The interim maintenance was awarded on 18.11.2022 after a round of conciliation. It is the case of the petitioner that during conciliation, the respondent-wife agreed to the interim monthly maintenance @Rs.5,000/- but while passing the order the learned Addl. Judge, Family Court, West Tripura, Agartala proceeded to award maintenance @Rs.8,000/- without any basis. Petitioner is in a temporary employment living in West Tripura along with his parents who are NREGA workers. Moreover, the respondent has been appointed as a Graduate Teacher

and she is working in Jampuijala. She is drawing a fixed salary of Rs.20,475/- per month from April, 2023. Therefore, the petitioner moved an application under Section 127 of the Cr.P.C. for modification of the order in the changed circumstances.

Learned Additional Family Court, West Tripura, Agartala, however, refused to interfere in the matter as the main maintenance case is still pending where rival issues can be decided upon adducing of evidence. Moreover, the amount of Rs.5,000/- awarded earlier as an interim maintenance in favour of the respondent-wife and the twelve year old daughter together with the salary drawn by the respondent-wife cannot be said to be adequate to meet the monthly expenses of the respondent-wife. Learned Additional Judge, Family Court, West Tripura, Agartala also discussed the ratio of certain decisions, such as in the case of ***Rajnish Vs. Neha & Anr. in Criminal Appeal No.730 of 2020 [arising out of SLP(Crl.) No.9503 of 2018]*** and ***Shailja & Anr. Vs. Khobbanna*** to come to an opinion that merely because the wife is capable of earning that would not be a sufficient ground to reduce the maintenance awarded by the Family Court in order to maintain herself in accordance with lifestyle of her husband in the matrimonial home. The learned trial Court also observed that the respondent has the additional burden to look after, nourish and maintain the minor daughter staying with her including her education and medical expenses apart from her personal expenses of travel to her place of work at Jampuijala during the pendency of the main case which is now at the stage of evidence of the petitioner.

Mr. Kousik Roy, learned counsel for the petitioner submits that when the circumstances have significantly changed due to the permanent

employment of the respondent on fixed pay basis as a graduate teacher after passing of the order of interim maintenance on 18.11.2022, there was no reason for the learned Court to refuse to modify even the interim maintenance awarded. Therefore, the petitioner has approached this Court.

I have considered the submission of the learned counsel for the petitioner and taken note of the materials placed from record including the observations made by the learned Additional Judge, Family Court, West Tripura, Agartala. On the conspectus of facts noted above, it is apparent that the main matter is still pending before the learned Additional Judge, Family Court, West Tripura, Agartala since 2022. The case is at the stage of evidence of the petitioner. In such circumstances, it would be proper that the main maintenance case is decided expeditiously with cooperation of both the parties by the learned Additional Judge, Family Court, West Tripura, Agartala. Therefore, this Court is of the opinion that the impugned order does not call for interference at this stage but it is expected that the learned Additional Judge, Family Court, West Tripura, Agartala would endeavour to decide the main maintenance matter as expeditiously as possible preferably within a period of three months from the date of receipt of copy of this order. Petitioner as well as the respondent shall cooperate in the proceedings and not seek any unnecessary adjournment.

Accordingly, the instant petition is disposed of. Pending application(s), if any, also stands disposed of.

(APARESH KUMAR SINGH), CJ