

**HIGH COURT OF TRIPURA
AGARTALA**

Crl.Rev.P. No. No.22 of 2024

1. Smt. Saraswati Lodh (Roy), W/o Sri Naba Kumar Roy, D/o Lt. Sambhu Chandra Lodh

2. Miss Ashmita Roy, D/o Sri Naba Kumar Roy

Both are presently residing at Siddhi Ashram (Kalimata Sangha), P.O. Siddhi Ashram, P.S. Amtali, Pin:799003, Dist: West Tripura

(Petitioner No.2 being minor is being represented by her mother i.e. petitioner No.1)

.....Petitioner(s);

Versus

Sri Naba Kumar Roy, S/o Sri Nilmadhab Roy, R/o Siddhi Ashram, P.O. Siddhi Ashram, P.S. Amtali, Agartala, Dist: West Tripura

.....Respondent(s).

For Petitioner(s) : Ms. Sutapa Deb Barman, Advocate,
Ms. Aradhita Debbarma, Advocate.

For Respondent(s) : Mr. Hare Krishna Bhowmik, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

28/02/2025

Heard Ms. Sutapa Deb Barman, learned counsel assisted by Ms. Aradhita Debbarma, learned counsel for the petitioners and Mr. Hare Krishna Bhowmik, learned counsel for the respondent-husband.

2. The learned Family Court, Agartala, West Tripura allowed enhancement of maintenance from Rs.1500/- in favour of the daughter to Rs.5000/- vide impugned judgment dated 17.11.2023 passed in Crl. Misc.01 of 2022 under Section 127 of the Cr.P.C., but at the same time held that not only is the wife-petitioner No.1 not entitled to any enhancement of maintenance of Rs.2500/- granted earlier vide order dated 14.01.2016, but she is not entitled to any maintenance as she is able to maintain herself having sufficient source of income. The learned Family Court had taken into consideration of three witnesses each adduced by both the parties. It had also taken into consideration

the notification of the Labour Department regarding the minimum wages for a daily wage labour and proceeded to compute the net income of the respondent-husband in the range of Rs.15000/- as he was working in a pathological laboratory. Since the wife was also treated to be an earning member, it did not consider it proper to allow any maintenance in her favour. The husband had not approached the learned Family Court for stoppage of the monthly maintenance earlier allowed in favour of the wife. As such, even if the learned Family Court did not find any basis to enhance the monthly maintenance of the wife, it was not proper on its part to stop maintenance altogether as the husband had not prayed for stoppage of that maintenance. Certain developments took place in the meantime which have been brought to the notice of this Court. The husband has got a decree of divorce on 30.11.2024 passed by the same Family Court in T.S. (Divorce) 95 of 2020. On the other hand, the suit for restitution of conjugal rights instituted by the wife under Section 22 of the Special Marriage Act, 1954 being T.S. (RCR) 37 of 2021 was dismissed. Both the decrees have been placed before this Court by learned counsel for the respondent-husband.

3. On the previous date, on the proposal of the respondent-husband to settle the matter by way of permanent alimony, parties were sent for mediation. However as per the report dated 11.02.2025 of the learned Coordinator, Mediation Centre of this Court, mediation has remained unsuccessful. Therefore, the matter has been heard today on the issue of maintenance in favour of the petitioner-wife herein. Learned counsel for the respondent has on instructions proposed that the husband is still willing and ready to pay Rs.2000/- as monthly maintenance in her favour. Since the learned Family

Court has assessed his net income as Rs.15000/- only and awarded enhanced maintenance of Rs.5000/- in favour of petitioner No.2-daughter, any sum beyond Rs.2000/- would not be within the capacity of the husband to pay as maintenance in favour of the wife.

4. Learned counsel for the petitioner-wife has however prayed for enhancement of the earlier maintenance amount from Rs.2500/- to Rs.3000/- at least.

5. Upon consideration of rival submission of the parties, since there was no prayer on behalf of the husband for stoppage or modification of the maintenance awarded earlier in favour of the wife at the rate of Rs.2500/- per month and that even after divorce, the husband is willing to pay maintenance in her favour commensurate with his net income of Rs.15000/- assessed by the learned Family Court, this Court is of the considered view that in such circumstances, the respondent-husband should pay the maintenance of Rs.2500/- granted earlier in favour of the wife, as not only has the cost of living not diminished after the award of maintenance originally awarded in the year 2016, but the net income of the respondent-husband as assessed by the learned Family Court at Rs.15000/- also justify the same. Therefore, it is ordered that the respondent-husband would continue to pay the monthly maintenance amount of Rs.2500/- in favour of the petitioner-wife also from the date of the impugned judgment i.e. from 17.11.2023. The current maintenance be paid by 10th of the following month starting from March, 2025. Arrears of maintenance from the date of the impugned judgment dated 17.11.2023 till January, 2025 be paid in 4(four) equal monthly installments at the intervals of one month each.

6. The instant revision petition is disposed of by interfering in the impugned judgment in the manner and to the extent indicated hereinabove.

(APARESH KUMAR SINGH), CJ

Pijush/

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