

**HIGH COURT OF TRIPURA
AGARTALA**

Crl.Rev.P. No.73 of 2024

Md. Ataur Rahaman, S/o Late Abdul Karim, resident of Village-
Kalagangerpar, P.S. Kadamtala, Dist- North Tripura, Pin-799261

.....Petitioner(s);

Versus

1. Mst. Neharun Necha, W/o Md. Ataur Rahaman

2. Mst. Rabiya Khatun, D/o Md. Ataur Rahaman

Both are resident of Kalagangerpar, P.O. Kadamtala, P.S. Kadamtala, Dist-
North Tripura, Pin-799261

.....Respondent(s).

For Petitioner(s) : Mrs. Sujata Deb (Gupta), Advocate.

For Respondent(s) : Mrs. Rajasree Purkayastha, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

29/01/2025

Husband is the petitioner whose application for modification of the maintenance awarded earlier by the learned Sessions Judge, North Tripura, Dharmanagar at the rate of Rs.7500/- per month each to both the wife and the major unmarried daughter vide judgment dated 06.09.2021 and upheld in Crl.Rev.P 33 of 2022 by a Coordinate Bench of this Court vide order dated 22.08.2022 [Annexure-4] has been rejected by the learned Family Court, Dharmanagar, North Tripura vide order dated 31.07.2024 passed in Crl. Misc. 59 of 2022. Such application has been rejected for the reason that the ground for modification of the maintenance enhanced earlier due to his retirement on 31.01.2022 and that he was receiving a pension of Rs.32,250/- has been duly agitated and taken note of by this Court in Crl.Rev.P 33 of 2022. The same cannot be reopened. Other circumstances about expenses on medicine and maid servant etc. are not cogent and convincing for reduction of the maintenance granted earlier. Point No.1 framed by the learned Family Court was answered against the petitioner. In view of the discussion made in respect of Point No.1,

Point No.2 was also decided against him. Being aggrieved, the petitioner has approached this Court in the present revision petition.

Upon notice, the respondent-wife and daughter both appeared through learned counsel Mrs. Rajasree Purkayastha.

Learned counsel for the petitioner has argued that though the factum of retirement of the petitioner was taken note of by this Court in Crl.Rev.P 33 of 2022, but the learned Court refused to interfere in the matter on the grounds taken in the written objection regarding his gross salary of Rs.60,000/- during service. This Court in the previous round of litigation did not render any opinion on the changed circumstances of his retirement in January, 2022 and reduction in his income from Rs.60,000/- i.e. salary income to Rs.32,250/- drawn as pension. Therefore, the learned Family Court could have rendered an independent opinion without being guided by this fact. It is indeed onerous for the petitioner to pay Rs.15,000/- as maintenance in equal share to the respondent-wife and the major unmarried daughter in such circumstances. Therefore, the order may be interfered with in the interest of justice and the amount of maintenance may be suitably reduced.

Mrs. Rajasree Purkayastha, learned counsel for the respondents, submits that the change in circumstances have been duly taken note of by this Court in Crl.Rev.P 33 of 2022 while rejecting the challenge to the enhancement of the maintenance amount granted earlier from Rs.2500/- each to Rs.7500/- each in favour of the respondents. The learned Family Court, therefore, rightly refused to treat this fact as a change in circumstances to modify the maintenance awarded earlier in their favour at the rate of Rs.7500/- each in

exercise of the power under Section 127(1) of the Cr.P.C. It is submitted that this Court may also decline to interfere in the impugned order as the Coordinate Bench of this Court in an earlier round has, despite taking note of the change in circumstances on retirement of the petitioner and reduction of his income, refused to interfere in the quantum of maintenance enhanced by the learned Family Court.

On consideration of rival submission of the parties, this Court feels that in view of the order dated 22.08.2022 passed in CrI.Rev.P 33 of 2022 by a Coordinate Bench of this Court, the learned Family Court could not have modified the maintenance granted in favour of the respondents on the plea of change of circumstances due to retirement of the petitioner and reduction of his income to Rs.32,250/- as that very fact had been duly taken note of by the learned Court while refusing to interfere in the order of enhancement of the maintenance at the rate of Rs.7500/- each per month passed by the learned Family Court on 06.09.2021. This Court, therefore, finds itself constrained to interfere in the matter since a Bench of co-equal strength of this Court has already refused to interfere in the amount of maintenance enhanced in favour of the respondents earlier despite taking note of the fact of retirement of the petitioner on 31.01.2022 and reduction of his income to Rs.32,250/- from Rs.60,000/- while he was in service. Therefore, the instant revision petition is dismissed.

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

(APARESH KUMAR SINGH), CJ

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