



Serial No.11
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

Crl.Petn. No.5 of 2025

Date of Order: 16.06.2025

Shri Evidence Jevalin Langtang S/o(L) Smti. Limdorian Langtang R/o Shangpung Mission Compound West Jaintia Hills District, Meghalaya.	Vs	Smti Glorybell Jones Suchiang D/o (L) Smti. Limidorian Langtang. R/o Shangpung Mission Compound, West Jaintia Hills, Meghalaya.
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.....Petitioner.

.....Respondents.

Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s)	: Mr. S. K. Roy, Adv. Ms. A. Kharshiing, Adv.
For the Respondent(s)	: Ms. A. D. Syiem, Adv.

ORAL:-

This criminal petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 has been filed by the petitioner praying for quashing of the impugned order dated 20-11-2024 passed by the Subordinate District Council Court, Jowai in Misc. Case No. 2 of 2022 arising out of Maintenance Case No.4 of 2022 whereby the prayer of the petitioner for reduction of the amount of interim maintenance was rejected by the Trial Court.

1. The respondent has challenged the maintainability of this criminal



petition by filing a written objection. Ms. A. D. Syiem, learned Counsel for the respondent submits that the petitioner has directly approached this Court without availing alternative remedy available under law. She submits that the order impugned in this present petition is assailable under Rule 28 r/w Rule 31 of the Khasi Hills Autonomous District (Administration of Justice) Rules, 1953 before the District Council Court. She submits that no specific reason has been cited by the petitioner to justify the invocation of the inherent power of this High Court. She contends that when there is a specific remedy provided by way of appeal or revision, the inherent power under Section 528 BNSS should not be resorted to. In support of her contention, the learned Counsel has relied on the decision of the Apex Court in *Vipin Sahni v. Central Bureau of Investigation*, AIR 2024 SC 2237. She submits that the respondent being the wife of the petitioner and unable to maintain herself is entitled to claim maintenance for herself and her children from the petitioner. She prays that since alternative remedy is available, this petition be rejected.

2. On the other hand, Mr. S. K. Roy, learned Counsel for the petitioner submits that the present criminal petition has been filed on the ground that the learned Trial Court had resorted to improper exercise of jurisdiction in passing the impugned order. He submits that an order of maintenance can only be granted in favour of the person who is entitled to claim maintenance, but the learned Trial Court proceeded to pass the impugned order despite the fact that the respondent as well as three out of the four children named in the petition are capable of maintaining themselves. He, thus, submits that the Trial Court has exceeded its jurisdiction in passing the impugned order. Without disputing the fact of availability of alternative remedy under Rule 28 r/w Rule 31 of the Khasi Hills Autonomous District (Administration of Justice) Rules, 1953, the learned Counsel contends that the invocation of the inherent power of this



High Court is necessitated as the learned Trial Court has exceeded the jurisdiction vested in it. He submits that criminal petition, therefore, is maintainable.

3. From the submission made by the learned Counsel for the parties and the materials on record, it appears that the respondent herein filed MCR Case No.4 of 2022 under Section 125 Cr.PC claiming maintenance from the petitioner. The said application for grant of maintenance was accompanied by Misc. MCR Case No. 2 of 2022 praying for grant of interim maintenance. The application for grant of maintenance was placed before the Subordinate District Council Court, Jowai for consideration. The learned Trial Court by order dated 21-09-2022 granted interim maintenance of Rs. 25,000/- to the respondent. The petitioner thereafter filed an application u/S 127 Cr.PC seeking modification/alternation/recalling of the interim order which was rejected by the learned Trial Court by order dated 10-04-2023. The petitioner then filed his show-cause in the Misc. MCR Case No. 2 of 2022 and prayed for reduction of the amount of interim maintenance. The learned Trial Court, after hearing the parties, by impugned order dated 20-11-2024 disposed of the Misc. MCR Case No. 2 of 2022 by rejecting the petitioner's plea and made the interim order of maintenance absolute till the disposal of the main MCR No. 04 of 2022.

4. The contention of the learned Counsel for the petitioner that the respondent and the children named in the petition are capable of maintaining themselves is a matter of fact and can only be ascertained by appreciating the materials on record. At this juncture, it cannot be said that the learned Trial Court exceeded its jurisdiction in passing the impugned order just because the petitioner disputes the entitlement of the respondent to receive maintenance. The plea raised by the petitioner cannot be entertained by this Court by scrutinizing and evaluating the



materials on record in exercise of inherent jurisdiction. Simply because the Trial Court was satisfied in passing the interim order by rejecting the plea raised by the petitioner, it cannot be held that the Trial Court overstepped the jurisdiction vested in it. The petitioner has not taken any plea of lack of inherent jurisdiction of the Trial Court. The power to grant interim maintenance is specifically provided in Section 125 Cr.PC. The contention of the learned Counsel for the petitioner, as such, is totally misconceived.

5. Rule 28 of the Khasi Hills Autonomous District (Administration of Justice) Rules, 1953 stipulates that an appeal shall lie to the District Council Court from the decision of a Subordinate District Council Court in any case, civil or criminal. The District Council Court may hear the appeal itself or may endorse it for hearing to the Additional District Council Court. It is not the contention of the learned Counsel for the petitioner that the order impugned in the present criminal petition cannot be challenged before any other forum. The Apex Court in the decision of *Vipin Sahni (supra)* observed that when there is a specific remedy provided by way of appeal or revision, the inherent power of the High Court should not be resorted to.

6. For what has been discussed above, this Court is not inclined to entertain the present criminal petition filed by the petitioner and the same is accordingly dismissed.

7. It is made clear that this Court has not gone into the merits of the case. It is open to the petitioner to seek redressal of his grievance by availing appropriate remedy available to him under law.

Judge

Meghalaya
16.06.2025



"Biswarup PS"

