

**HIGH COURT OF TRIPURA
AGARTALA**

Crl.Rev.P. No.28 of 2025

Md. Thoufik Hossain,
S/O- Md. Narul Ulla,
R/O- Rangamatia, Khedabari
Near Saw Mill, P.S.-Sonamura,
District-Sepahijala, Tripura.

....Petitioner(s).

Versus

- 1. Smt. Kazi Jasma Begam,**
W/O- Md. Thoufik Hossain
- 2. Miss. Naima Aktar,**
D/O- Md. Thoufik Hossain
The respondent No.2 being minor is represented by
Smt. Kazi Jasma Begam (mother)
Both presently residing at: Vill.- Khilpara,
Kalibari, P.S.- R.K. Pur, Udaipur,
District- Gomati, Tripura, P-799114
- 3. The State of Tripura**

..... Respondents.

For Petitioner(s)	:	Mr. Rishiraj Nath, Adv, Mr. Jilu Rahaman, Adv.
For Respondent(s)	:	Mr. Raju Datta, P.P., Ms. Mampi Chakraborty, Adv.
Date of Hearing	:	27.02.2026
Date of delivery of Judgment and Order	:	03.03.2026
Whether fit for Reporting	:	YES

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

This criminal revision is filed challenging the
judgment and order dated 05.04.2025 passed by Learned

Judge, Family Court, Udaipur, Gomati District in connection with case No.Cr.Misc.03 of 2022. By the said judgment, Learned Judge, Family Court has directed the O.P., i.e. the petitioner herein to pay Rs.6,000/- per month to the respondent-petitioners as maintenance w.e.f. 06.01.2022 i.e. from the date of filing the petition before the Learned Court.

02. Heard Learned Counsel, Mr. R. Nath appearing on behalf of the petitioner and also heard Learned Counsel, Ms. M. Chakraborty appearing on behalf of the respondents. Learned P.P. is also present on behalf of the State-respondent.

03. At the time of hearing, Learned Counsel for the petitioner drawn the attention of the Court the cross-examination of PW1 before the Learned Trial Court wherein she specifically admitted that she filed a case against her husband vide case No.CR (CC) 13 of 2021, she also stated that she had withdrawn the names of her husband, daughter and her name from the family ration card and family register of her husband's joint family and included those in her paternal family. She further stated that she has been residing in the residence of her father since the year 2016. Thereafter, she also stated that she did not submit any document as regards the profession of her husband as driver or as regards his ownership of fisheries and landed properties or that he was earning Rs.60,000/- per month.

Referring the same, Learned Counsel for the petitioner submitted that the Learned Trial Court at the time of delivery of judgment did not consider those relevant parts of evidence before awarding maintenance in favour of the respondent-petitioners.

He further drawn the attention of the Court referring Annexure-4 i.e. the copy of judgment in connection with case No.CR(CC) 13 of 2021, the case which was filed by the respondent-petitioner No.1 against the present petitioner and his family members under Section 498A/323/506/34 of IPC and the said case ended in acquittal in favour of the present petitioner, but that was not considered by the Learned Trial Court.

He also drawn the attention of the Court referring **Annexure-5** i.e. the copy of judgment in connection with one CR (DV) 60 of 2022 filed by the respondent-petitioner No.1 against the husband i.e. the petitioner herein and also referred para nos.12, 17, 18, 20, 22, 24 and 26 and submitted that by the said judgment Learned CJM dismissed the application filed by the petitioner regarding returning back of streedhan properties. He also submitted that before the Learned Judge, Family Court the petitioner failed to prove her case by adducing oral/documentary evidence on record but the Learned Trial Court did not consider the evidence on record and

ultimately awarded maintenance in favour of the respondent-petitioners for which the same needs to be interfered with.

He further submitted that since the petitioner herself admitted that she was staying separately from her husband since the year 2016, in that case in pursuance of Section 125(4) of Cr.P.C. she was not entitled to get any maintenance as her case does not cover by the provision of the aforesaid Section. But the Learned Trial Court at the time of consideration of the case did not consider all those aspects and urged for setting aside the judgment of the Learned Trial Court or alternatively, he urged for remanding back the matter to the Learned Trial Court for taking fresh evidence. Finally, Learned Counsel for the petitioner submitted that since the respondent-petitioner No.1 herself withdrawn her from the society of the present petitioner-husband, so, in view of Section 125(4) of Cr.P.C. she is not entitled to get any maintenance from her husband. But Learned Counsel did not press for maintenance granted in favour of the minor daughter.

05. The submission of Learned Counsel was countered by Learned Counsel for the respondent-petitioners, Smt. M. Chakraborty. In course of her submission, Learned Counsel stated that in para No.59 of the examination-in-chief in-affidavit filed by the present petitioner-husband, he specifically admitted that on 14.03.2020 the present petitioner came from Saudi Arabia and went to Bangalore for the purpose of

treatment of his daughter and stayed Bangalore for two months with the respondent-petitioner. Learned Counsel further drawn the attention of the Court referring the cross-examination of the present petitioner by the respondents, wherein, he specifically admitted that he is not paying any maintenance to his daughter and wife. Further, he admitted that he did not file any case for restitution of conjugal rights to bring back his wife. He also admitted that he did not mention the date, the names of the persons present in the conciliation meeting, again admitted that he did not submit any document as regards the withdrawal of the name of his wife from his family ration card. Further admitted that he did not lodge any complaint before police or any authority complaining the alleged illicit relation of his wife as mentioned by him. He further admitted that he did not submit any document reflecting that he remitted the sum of Rs.15,00,000/- to Rs.20,00,000/- to the bank account mentioned in paragraph No.7 of his examination-in-chief in affidavit.

Learned Counsel further drawn the attention of the Court the cross-examination of OPW4, Md. Nur Ullaha, who is the father of the present petitioner and during his cross-examination he specifically stated that his grand-daughter, Smt. Naima Aktar has a disease in her lips and his son is not paying any maintenance to his wife and daughter.

Learned Counsel further submitted that in para No.22 & 23 of the judgment delivered by Learned Trial Court the entire thing has been discussed in threadbare by the Learned Court, rather the respondent No.1 was driven out from her matrimonial home by the present petitioner. Furthermore, the petitioner by the style of cross-examination could not discard the evidence on record of the respondent No.1 and as such there is no merit in the revision petition filed by the present petitioner and prayed for dismissal of the revision petition with costs.

06. Heard both the sides and perused the record of the Learned Trial Court including the judgment delivered by the Learned Trial Judge. The respondents as petitioners filed the petition for granting maintenance under Section 125 Cr.P.C. before the Learned Judge, Family Court with the assertions that the marriage of respondent-petitioner No.1, Kazi Jasma Begam was held with O.P. Thoufik Hossain on 25.04.2010 as per Mohammedan rites and customs in the house of the respondent-petitioner No.1 and at the time of the marriage, the parents of the respondent No.1 gave a sum of Rs.50,000/- in cash along with gold ornaments and other articles. Soon after the marriage, the respondent-petitioner No.1 and the present petitioner-husband started residing together as husband and wife and gave birth to a daughter namely, Naima Aktar, the respondent-petitioner No.2, who was nine years at

the time of filing the case. After the birth of the minor daughter, the present petitioner-husband and his family members started causing mental cruelty upon the respondent-petitioner No.1 and used to cause physical cruelty also upon her for bringing money from her residence, i.e. father and in this regard, on several occasions money was given, but inspite of payment of money on so many occasions, the respondent No.1 was driven out from her matrimonial home. In this regard, conciliation meetings were held but although the petitioner-husband assured not to cause torture upon the respondent-petitioner No.1 but that was continued and ultimately on 09.03.2021 the respondent-petitioner No.1 was again driven out and on 12.06.2021 the present petitioner-husband came to the parental residence of the respondent-petitioner No.1 and created pressure demanding money but as her parents expressed their inability to make any payment, then the petitioner-husband misbehaved with the respondent-petitioner No.1 and tried to assault them and left her house threatening with dire consequences and as no maintenance was given, so, she was under compulsion to file the petition for maintenance. The proceeding was contested by the present petitioner as O.P.-husband denying the assertions, but, he did not dispute his marriage with the respondent-petitioner No.1 but denied to receive any cash amount, gold ornaments and other articles. Rather the petitioner-husband took the plea that after six months of marriage, the respondent-petitioner No.1

stayed in her parental house for six months but as the O.P. tried to bring her back but she did not come back. Conciliation meeting took place and she came back to her matrimonial home. In the meantime, the petitioner-husband went to Saudi Arab seeking a job on 01.01.2016 and on 01.01.2017 the petitioner-respondent No.1 again left her matrimonial home with all her gold ornaments, clothes, furniture and all her personal belongings. In the month of October, 2017 the petitioner-husband returned back from Saudi Arabia on leave for four months and was compelled to reside in the house of the respondent-petitioner No.1 and by that time, her parents transferred the ration card of the petitioner-husband to Khilpara from Melaghar and entered his name in the Family Register of Khilpara Gram Panchayat and after four months the O.P.-husband returned to Saudi Arabia but thereafter, the respondent-petitioner No.1 never came back to her matrimonial home. On 14.03.2020 the petitioner-O.P. returned from Saudi Arab and went to Bangalore for the purpose of treatment of daughter and stayed therein for two months with the respondent-petitioner. After that they returned back to Tripura and staying at quarantine at Melaghar started residing together at Udaipur. That time the petitioner-husband noticed that respondent-petitioner No.1 developed some relation with some boys when the petitioner informed the matter to his in-laws but they did not pay any heed to that and being

requested she did not stop rather she continued to maintain her relation with some other boys.

It was further submitted that that petitioner-husband send maximum of his income in Saudi Arabia to the bank account of the respondent-petitioner No.1. Thus, he has spent Rs.15,00,000/- to 20,00,000/-. It was further submitted that the petitioner-husband constructed a house with kitchen, toilet etc. in the premises of the house of his parents-in-law at Khilpara by his own income and as the petitioner lost his job during Covid-19 pandemic and thus, he has become unemployed.

However, the Learned Trial Court upon the pleading of the parties framed raised the following points for determination of the proceeding:

- (1) Whether the petitioner no 1 is the legally married wife of the OP and the petitioners no 2 is their minor daughter?**
- (2) Whether the petitioner no 1 has any valid reason of not staying with the OP?**
- (3) Whether the petitioners are entitled to get maintenance?**
- (4) What should be the quantum of maintenance, if allowed?**

And finally determined the maintenance at the rate of Rs.6,000/- per month in total i.e. Rs.3,000/- each for each of the petitioners.

07. I have also perused the judgment of the Learned Trial Court below and gone through the record of the Learned Trial Court including the evidence on record. At the time of

hearing, Learned Counsel for the petitioner tried to draw the attention of the Court referring the cross-examination part of the respondent-petitioner No.1 and also referred some judgments against the respondent-petitioner No.1 and referring those citations he tried to draw the attention of the Court that the respondent-petitioner No.1 voluntarily left the company of her husband and as such she was not entitled to get any maintenance from her husband, i.e. the petitioner herein.

However, after going through the cross-examination of the petitioner-husband, it appears that during his cross-examination he specifically stated that he did not pay any maintenance towards the expenses of the petitioners, nor submitted any petition for restitution of conjugal rights, also he did not submit any document as regards withdrawal of the name of his wife from his family ration card. He also did not lodge any complaint before any police regarding the alleged illicit relation of his wife, nor he submitted any document showing that he remitted Rs.15,00,000/- to 20,00,000/- from Saudi Arabia to the bank account of his wife, i.e. the respondent-petitioner No.1. Rather his father during his cross-examination as OPW4 very specifically admitted that his son, i.e. the present petitioner herein has not been paying any maintenance to his wife and daughter.

From the judgment of the Learned Trial Court it appears that at the time of delivery of judgment, Learned Trial Court has considered all these aspects and after considering the evidence on record decided to allow maintenance in favour of the respondents. The present petitioner by the style of cross-examination and also by way of evidence failed to satisfy the Learned Trial Court that the respondent-petitioner No.1 has wilfully withdrawn her society from her husband voluntarily to disallow her petition for maintenance under Section 125(4) of Cr.P.C. and since the petitioner-husband himself on oath before the Court admitted that he is not paying any maintenance to his wife and daughter and rather in his examination-in-chief he admitted that he stayed with the respondent-petitioner No.1 at Bangalore at the time of treatment of his daughter, so, it appears that he has failed to adduce any cogent evidence on record to disbelieve the evidence of his wife, i.e. the respondent-petitioner No.1 herein.

08. Furthermore, in a proceeding under Section **125** of Cr.P.C. Court is to decide whether there is any refusal or neglect on the part of the husband to pay maintenance to his wife and children or not, which in my considered view, Learned Trial Court has rightly considered and decided in this case.

09. Situated thus, I do not find any irregularity or impropriety in the order passed by Learned Trial Court dated 05.04.2025 in connection with case No.Cr.Misc.No.03 of 2022

and as such the same does not call for any interference and furthermore, Learned Trial Court considering the evidence on record rightly awarded Rs.6,000/- as maintenance in favour of the respondent-petitioners. Admittedly, the respondent-petitioners before the Learned Trial Court could not produce and prove any documentary evidence on record regarding the monthly income of the petitioner-husband. However, considering all aspects Learned Trial Court in my considered view has rightly determined the amount of maintenance in favour of the respondent-petitioners which is also reasonable and furthermore, the petitioner is able-bodied and is legally bound to provide maintenance to the respondents.

10. In the result, the petition filed by the present petitioner bears no merit for interference and as such the revision petition filed by the petitioner stands rejected being devoid of merit. The order dated 05.04.2025 passed by Learned Judge, Family Court in Cr. Misc.No.03 of 2022 is accordingly stands uphold and affirmed. The petitioner-husband is asked to pay the maintenance as ordered by the Learned Trial Court in favour of the respondent-petitioners to prevent them from any sort of hardship and sufferings.

Send down the record to the Learned Trial Court along with a copy of this judgment/order

With this observation, this petition stands disposed
of on contest.

Pending application(s), if any, also stands disposed
of.

JUDGE

**PURNITA
DEB**

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