

**HIGH COURT OF TRIPURA
AGARTALA**

Crl. Rev. P. No.72 of 2025

Smt. Aparna Jamatia,
Wife of Sri Milanta Kumar Jamatia,
Daughter of Sri Bijoy Pada Jamatia,
Presently residing at Darjeeling Tilla,
P.O. Karailong, P.S. Teliamura,
District: Khowai Tripura, PIN:799 205

-----**Petitioner(s)**

Versus

1. The State of Tripura,
2. Sri Milanta Kumar Jamatia,
Care of The Commandant,
146 BN, BSF, PIN:742164,
Roshanbagh, Murshidabad, West Bengal,
Son of Late Drunaguru Jamatia,
Permanent resident of Darjeeling Tilla,
P.O. Karailong, P.S. Teliamura,
District: Khowai Tripura, 799 205

----- **Respondents (s)**

For Petitioner(s)	: Mr. Pradip Rathor Adv. Ms. Babita Debbarma, Adv.
For Respondent(s)	: Mr. Rajib Saha, Addl. P.P. Mr. Victor Ghosh, Adv.

Date of hearing & delivery of Judgment & Order	: 28.01.2026
Whether fit for Reporting	: NO

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order (Oral)

Delay condoned.

02. This revision petition under Section 438 and Section 442 of BNSS read with Section 19(4) of the Family Courts Act, 1984 is filed by the petitioner for setting aside the order dated 31.07.2025 passed by Learned Judge, Family Court, Khowai, Tripura in connection with Crl. Misc

06 of 2025. By the said order Learned Family Judge dismissed the maintenance case filed by the petitioner. Learned Judge, Family Court also by order dated 25.06.2025 dismissed the interim application filed by the petitioner in Crl. Misc. (Int) 05 of 2025.

03. At the time of hearing Learned Counsel Mr. P. Rathor appearing for the petitioner submitted that before the Learned Trial Court no such statement of assets and liabilities were submitted. It was further submitted that before the Learned Trial Court the respondent No.2 inspite of receipt of notice did not appear on 28.03.2025 so the case was posted for *ex-parte* hearing on 01.05.2025. The respondent No.2 on 25.04.2025 filed a put up petition to vacate the *ex-parte* order which was posted for hearing on 01.05.2025 for statement of assets and liabilities and for conciliation. On 01.05.2025, engaged counsel was present with the petitioner but the respondent No.2 was absent and the Learned Court opined that no statement of assets and liabilities was filed and also opined that counseling and conciliation could not be taken up as the respondent No.2 was absent and fixed the case on 28.05.2025 for PWs. On 28.05.2025 Learned Counsel for the petitioner was present but the respondent No.2 was absent without any step. So the case was further fixed on 25.06.2024 for PWs. On 25.06.2025 Learned Counsel for the petitioner was present but the respondent No.2 was absent. The petitioner prayed for an adjournment on the ground of illness of the petitioner

but no documentary evidence could be filed. The case was further posted for PWs on 31.07.2025 but the petitioner was not aware about the date on 31.07.2025. So by the said order Learned Judge dismissed the application for maintenance. It was further submitted by Learned Counsel for the petitioner that on that day the respondent was present. So Learned Counsel for the petitioner urged for setting aside the order passed by Learned Judge, Family Court on the ground that the said order of the Learned Trial Court suffers from infirmity.

04. On the other hand, Learned Counsel for the husband-respondent opined that scope be given to the respondent-husband to submit statement of assets and liabilities. But he could not submit anything regarding merit of the case rather Learned Counsel submitted that there was no infirmity in the order passed by the Learned Judge, Family Court, Khowai.

05. I have heard submission of both the sides and perused the order passed by the Learned Judge, Family Court, Khowai in Crl. Misc 06 of 2025 and also in Crl. Misc.(Int) 05 of 2025. It appears that the parties were not diligent for proper disposal of the case before the Learned Trial Court. From the copies of orders it appears that the statement of assets and liabilities were not properly filed by the parties of the proceeding.

06. I have also perused the order dated 31.07.2025 passed by Learned Judge, Family Court and also the order

dated 25.06.2025 passed by Learned Judge, Family Court, Khowai. It appears that on 31.07.2025 neither the petitioner nor the engaged Counsel was present but the OP was present. Since the case was posted for evidence of the petitioner so Learned Court below dismissed the application on the ground of non-prosecution rather in absence of the petitioner proceeded to hear the matter and disposed of the matter giving the liberty to the petitioner to file maintenance case later on. Similarly on 25.06.2025 on the ground of non-production of witness Learned Court below dismissed the application for interim application. Since the main case was disposed of so the order of Learned Court below dated 25.06.2025 automatically merged with the main order at the time of disposal of the case. So after hearing both the sides it appears to this Court that Learned Court below mechanically passed the order without application of proper mind in absence of the petitioner which needs to be interfered with. It is necessary to be mentioned here that Section 144 of BNSS corresponding to Section 125 of Cr.P.C. provides for order of maintenance of wife, children and parent incase of refusal/neglect by the other side. The Supreme Court in the judgment **Rajnesh vs. Neha and Ors.** reported in **(2021) 2 SCC 324** directed that for proper disposal of maintenance proceeding statement of assets and liabilities be filed by both the parties. It is not known to this Court as to whether those have been duly filed by the parties or not. But from the

order dated 31.07.2025 it appears that on that day the petitioner and her witnesses remained absent but the husband petitioner was present. So by a detailed order Learned Family Judge, Khowai has finally disposed of the matter which in my considered view was not proper. Since the provision is a beneficial provision to protect the interest of the women/wife. So without affording any opportunity it is not proper to dismiss a case for which it appears to this Court that the matter needs to be remanded back to the Learned Judge, Family Court, Khowai for disposal in accordance with law after affording proper opportunities to the parties.

07. In the result, the revision petition filed by the petitioner wife is hereby allowed. The order dated 31.07.2025 passed by Learned Judge, Family Court, Khowai is thus set aside. The matter is remanded back to the Learned Judge, Family Court, Khowai with a direction to allow both the parties to submit their statement of assets and liabilities if not filed, and further to allow both the parties to adduce their evidence afresh and thereafter to deliver a fresh judgment in accordance with law without being biased by the order of this Court. Both the parties shall be asked to appear before the Court of Learned Judge, Family Court, Khowai on 17.02.2026 either personally or through by their engaged counsel for further proceeding. Learned Judge, Family Court, Khowai shall make all endeavour to dispose of the matter within a period of six

month from the date of receipt of copy of this judgment and order.

It is made clear that during pendency of the proceeding the petitioner shall have the liberty to pray for interim maintenance if she is duly advised, to the Learned Court below.

With this observation and direction, this present revision petition stands disposed of.

A copy of this order be communicated to the Learned Judge, Family Court, Khowai for information and compliance and also a copy of this order be supplied to the Learned Counsels for both the parties for information and compliance.

JUDGE



**MOUMITA
DATTA**

Moumita

Digitally signed by
MOUMITA DATTA
Date: 2026.01.29 18:04:28
+05'30'