GAHC010187862025

2026:GAU-AS:9960

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Rev.P./341/2025

MAHIR UDDIN
SON OF ABDUL HAQUE
VILL- ANANDAPUR P.O. MAJGAON, P.S. BARPETA, DIST. BARPETA, ASSAM

VERSUS

AFRUJA BEGUM
S/O AJIJUR MOLLA
VILL- KHANDARKUR, P.O. TARABARI, P.S. BARPETA,
DIST. BARPETA, ASSAM

Advocate for the Petitioner : MS A BEGUM,

Advocate for the Respondent : MS. S NAZNEEN, Amicus Curiae for Sole Respt.,

BEFORE

HON'BLE MR. JUSTICE SANJEEV KUMAR SHARMA

ORDER

21-07-2026

Heard Ms. A. Begum, learned counsel for the petitioner and Ms. S. Nazneen, learned Amicus Curiae for the sole respondent.

2. The present application under Sections 438/442 of the BNSS, 2023 has been filed challenging the final order dated 16.07.2025, passed by the learned Principal Judge, Family Court, Barpeta in F.C. (Crl) Case No. 265/2022, whereby, the present petitioner/2nd party was directed to pay monthly maintenance of Rs.2,500/- to the respondent/1st party w.e.f., the date of filing of the said petition.

3. The present respondent wife as the 1st party had instituted a proceeding before the learned Principal Judge, Family Court, Barpeta under Section 125 CrPC, stating therein that she started conjugal life with the 2nd party since 01.04.2019 being the date of execution of marriage agreement vide Serial No.189/2018. On the same date another agreement was executed between them with condition that the 2nd party would get mutated the name of the 1st party in respect of land measuring 2 Katha-10 Lecha standing in his name at Anandapur Bazar. Moreover, he also pledged to include her name as nominee in his LIC Policy. The 2nd party also further pledged to provide maintenance of her minor daughter Mamoni Aktar which she begotten through her former husband. Surprisingly, after one month of their marriage the 2nd party started subjecting her to physical and mental torture and declined to execute the said agreement.

4. It is further alleged that the 2nd party on several times made attempt to kill her by mixing poison with cooked rice and vegetables. After three days of her marriage with the 2nd party she brought back of her ornaments and one milk yielding cow and cash amount of Rs.10,000/- from her former husband which are now in the custody of the 2nd party. He intensified torture upon her when she failed to satisfy his illegal demand of Rs.10,000/- and motor cycle. She was forbearing all such humiliation and torture in order to continue conjugal life with him. In the month of August 2020, the 2nd party physically assaulted her and drove her out from his house after keeping all her aforesaid articles. Thereafter, she was compelled to take shelter at the house of her poor parents. Since then, the 2nd party has neither taken care of her and her minor daughter nor provided any maintenance to them After two months of the driving her out from the matrimonial house, the 2nd party entered into second marriage with one Asmina Khatun and leading conjugal life with her. The 2nd party is a physically able bodied person and financially sound. He earns around Rs.60,000/- to Rs.70,000/- per month from his said landed property measuring 6-7 Bighas and three shops situated Anandapur Bazar.

5. The 2nd party submitted his written statement denying all the allegation and claim of 1st party. It is pleaded that the 1st party has filed the case for illegal gain and to extract money from him. He has denied execution of any marriage agreement with the 1st party on 01.04.2019.

6. It was the case of the 2nd party/present petitioner that he is a married man as is the 1st party who is having her own children. The 1st party is a resident of Bhawanipur Mouza and Anandapur village, and widow of one Ismail

Hussain. It is contended that the 1st party has created the marriage agreement and another agreement by adopting forgery. Although the 2nd party is a resident of the same locality of the 1st party but their residents are completely different. He has no any connection with the minor daughter of the 1st party. The 1st party has three children through her deceased husband Ismail Hussain. The 2nd party faced extreme financial crunch since 2018. Taking advantage of the situation 1st party obtained his signature in several blank papers on the plea that she would manage to help him getting financial loan from the financial institution at Barpeta Road. But 1st party instead of providing him financial loan is collecting Rs.200/- to Rs.300/- every day on various pleas. So, the 2nd party has stopped communicating with 1st party. As a revengeful action, 1st party has filed this false case against him. Hence he has prayed for dismissal of the case.

7. The learned Principal Judge, Family Court, Barpeta upon consideration of the evidence came to the finding that the minor daughter of the 1st party/present respondent is not entitled to maintenance, but, however, from the evidence it has been established that the 1st party/present respondent being the wife of the 2nd party/present petitioner was entitled to maintenance and accordingly granted maintenance @ Rs.2,500/- per month.

8. Learned counsel for the petitioner submits that the petitioner denies the marriage between the parties and that from the evidence on record, it clearly transpires that the respondent had failed to establish a marriage with the present petitioner, justifying ground of maintenance.

9. It was the case of the 1st party/respondent before the learned Trial Court that the marriage was executed between the parties on 01.04.2019 by way of

marriage agreement which was executed before the Notary Public between the parties in the presence of witnesses. In supports of her aforesaid contention, the 1st party/respondent examined herself and deposed to the due execution of her marriage with the present petitioner. The CW-1 who happens to be the father of the 1st party/respondent also supported the evidence of the respondent wife. Another witness i.e., CW-2 who was the uncle of the present petitioner/husband had stated in his examination-in-chief that he did not know about the marriage between the parties, but, subsequently, during cross examination, he admitted that Exhibit-C(1)/CW 1 which was the Notarial Certificate was signed by the parties in his presence and he also identified his own signature therein which prima facie points towards the existence of the marriage between the parties.

10. As rightly held by the learned Trial Court in a proceeding under Section 125 Cr.P.C., strict proof of marriage is not required and the Magistrate/Court dealing with the same has to come to a prime facie view regarding the existence of a marriage between the parties.

11. Having come to such a view, the learned Trial Court awarded the maintenance as aforesaid.

12. In view of the above, I do not find any infirmity in the impugned final order dated 16.07.2025, passed by the learned Principal Judge, Family Court, Barpeta in F.C. (Crl) Case No. 265/2022 and therefore, decline to interfere with the same.

13. However, needless to say, that the petitioner is at liberty to challenge the validity of the marriage before the appropriate forum, if so advised.

14. This criminal revision petition accordingly stands dismissed.

15. Send down the LCR forthwith.

JUDGE

Comparing Assistant