

IN THE HIGH COURT OF TRIPURA
AGARTALA

CRL. REV. P. No.19 of 2015

Smt. Sharmistha Chakraborty,
wife of Sri Manik Lal Mahanta,
daughter of Sri Sayendra Chakraborty,
resident of village- Netajinagar, P.O.& P.S. Ambassa,
District- Dhalai Tripura

Presently residing at

C/o. Sri Pinak Pani Chakraborty,
Badharghat, Near Bhadhargrat Stadium,
P.O. Badharghat, P.S. West Agartala,
District- West Tripura

..... **Petitioner**

- V e r s u s -

Sri Manik Lal Mahanta,
son of Sri Kandarpa Mahanta,
resident of village- Kamalpur Town,
P.O. & P.S. Kamalpur, District-Dhalai, Tripura

Presently residing at

Nepal tilla Police Station,
P.O. & P.S. Nepal Tilla,
District-Dhalai, Tripura

..... **Respondent**

BEFORE
THE HON'BLE MR.JUSTICE S. TALAPATRA

For the petitioner : Mr. A Bhowmik, Advocate.

For the respondent : Mr. D Sarma, Advocate

Date of hearing and : **11.06.2015**
delivery of judgment & order

Whether it is fit for reporting :

Yes	No
	√

JUDGMENT & ORDER (ORAL)

Heard Mr. A Bhowmik, learned counsel appearing for the petitioner as well as Mr. D Sarma, learned counsel appearing for the respondent.

[2] This is a petition filed under Section 19(4) of the Family Courts Act, 1984, questioning the legality of the order dated 13.11.2014 delivered in Misc. 25/2014 by the Family Court, Agartala, West Tripura.

[3] The undisputed fact that has surfaced from the record is that the petitioner is the married wife of the respondent and the petitioner has been living separately from the respondent as according to her she was compelled to leave the matrimonial home for the cruelty that was meted to her on unlawful demand. Even another serious allegation against the respondent has been levelled that the respondent is having an extra-marital relation with 'another' lady.

[4] The petitioner at present is undergoing her post graduate studies in music in Tripura Central University. The petitioner's further allegation was that the respondent created pressure on her to discontinue her studies. According to the petitioner the respondent is a Sub-Inspector of Police earning salary of Rs. 22,000/- per month but he refused to pay her maintenance. As a result, she filed a petition under Section 125

of the Cr.P.C for an order of maintenance in the Family Court, Agartala, West Tripura.

[5] The respondent by filing the written objection has denied all the allegations and also made some counter allegations against her. According to the respondent he was getting 8000/- per month as salary after deduction and he denied that he is in the circumstances is liable to provide maintenance to the petitioner as the petitioner had left the matrimonial home on her own volition and without any reason.

[6] The petitioner and the respondent led their respective evidence and on appreciation of those evidence the Family Court arrived at a finding that the respondent is an Assistant Sub-Inspector of Police, not Sub-Inspector of Police and thereafter returned the following finding:

"A married woman having no source of income in our society cannot be expected to disconnect herself from her husband without any reason and in such a circumstances the statement made by PWs 1, 2 and 3 appears to be more reliable and sufficient to indicate that the opposite party did not make any contact with the petitioner since about 1 ½ years back and also stopped to provide maintenance for her. It is also not disputed in this case that the petitioner is the legally married wife of the opposite party and she is now living in a rented house at Agartala in connection with her higher studies having no source of income and as such it appears that the opposite party is no doubt under obligation to provide maintenance to his wife and accordingly, considering all aspects, the need of the petitioner and the earning of the opposite party, it is ordered that the opposite party be directed to provide maintenance @ Rs. 4,000/- per month to the petitioner w.e.f, 01.11.2014"

The said judgment and order delivered in Misc. 25 of 2014 has been challenged in this petition.

[7] Mr. A. Bhowmik learned counsel appearing for the petitioner has submitted that the petitioner is staying in a rented house defraying monthly rental at about Rs. 5,500/- per month and thereafter, she has to spend for her living and as such this maintenance allowance as provided by the Family Court is inadequate for decent living and hence is required to be commensurate to the modest requirement of the petitioner.

[8] From the other side Mr. D. Sharma, learned counsel for the respondent has succinctly submitted that the respondent has dependent parents and one unmarried sister. Apart that, for purchase of a house the respondent had taken a loan and has to pay the monthly instalment which is around Rs. 5,800/- per month. He has also submitted that without any sufficient reason the petitioner has left the matrimonial home and raised some wild allegations against the respondent. In the course of submission he has further submitted that the respondent has sought alteration of the impugned order by filing a petition under Section 127 of the Cr.PC in the Family Court and that proceeding is still pending.

[9] Mr. Bhowmik, learned counsel for the petitioner has also acceded to that statement. He has submitted that the

petitioner has already submitted her objection against such prayer.

[10] Without any prejudice to the said proceeding, this Court is of the view that on taking the overall assessment, the respondent is liable to pay maintenance at the rate of Rs. 5000/- to the petitioner. Accordingly, it is ordered. The said amount shall be paid to the petitioner within 10th day of every English Calendar month w.e.f. 01.06.2015. However, the respondent shall pay maintenance @ 4000/- with effect from 01.02.2014. The arrear maintenance that would accrue shall be paid by 20 equal instalments. Even though this Court has serious reservation regarding the procedure followed by the Family Court, Agartala, West Tripura but since there was no objection from the respondent, the Superintendent of Police, Dhalai District, Ambassa is directed to deduct the regular maintenance allowance and the instalments for the arrear amount from the salary of the petitioner and to remit the said amount to the savings bank account of the petitioner which shall be furnished by the petitioner to the Superintendent of Police, Dhalai District, Ambassa, along with a copy of this order.

It is clarified that the Family Court shall adjudicate and decide the proceeding under Section 127 of the Cr.P.C. as pending without being influenced by this order.

With this observation and direction this petition stands allowed and disposed of.

JUDGE

Dipesh/MB