

THE HIGH COURT OF TRIPURA
A G A R T A L A

CRL. REV. P. NO.15 OF 2015

Sri Surajit Das,
S/O. Sri Bijoy Kr. Das
Resident of West Hawaibari,
P.S. Teliamura,
District- Khowai, Tripura. **.....*Petitioner.***

By Advocate :
Mr. R. Paul, Advocate,

Smt. Uttara Das,
W/O Sri Surajit Das,
D/O Sri Harala Das
Resident of Pitra,
P.S. R.K. Pur, Udaipur,
District- Gomati, Tripura. **.....*Respondent.***

By Advocates :
Mr. K.N. Bhattacharji, Sr. Advocate,
Mr. R.C. Deb, Advocate.
Ms. S. Chakraborty, Advocate

B E F O R E
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

Date of hearing and
delivery of Judgment & Order : **31.8.2015**

Whether fit for reporting : **YES/NO**

JUDGMENT & ORDER(ORAL)

This criminal revision petition is directed against the judgment dated 28.11.2014, passed by the learned Judge, Family Court, Udaipur, Gomati District, Tripura in Case No.Cr.Misc./FC/UDP/38/2014 awarding maintenance of Rs.2,500/- (two thousand & five hundred) per month in favour of the respondent-wife. The petitioner-husband has been directed to pay this amount. Aggrieved by this judgment the petitioner filed the present petition.

(2) The learned trial Court after recording evidence came to the conclusion that the wife had sufficient cause to live separately from her husband because the wife was being beaten by the petitioner-husband. The husband is a 'driver' and the learned Judge of the Family Court has taken the income of the husband at a very conservative estimate at Rs.250/- per day and has awarded one third of the same to the wife for her maintenance. There are no issue out of their wedlock.

(3) It has been urged before this Court that the wife has been taking contradictory stands inasmuch as in this complaint she has stated that she was beaten up by the husband but during evidence she also stated that the husband had illicit relations with his sister-in-law and, therefore, she had to leave the house. It has also stated by learned counsel that before filing of the maintenance application the wife had filed an FIR in which certain other allegations are made. I find no reference of this FIR in the judgment of the learned Family Judge and from the record of the trial Court I find that this FIR is not on the record of the Family Judge. Therefore, the same cannot be referred to in revisional proceedings.

(4) This Court while hearing a petition under Section 397 of the Cr.P.C. is not to re-appreciate any evidence. In revisional jurisdiction this Court can only decide whether the trial Court has exercised its jurisdiction vested in it in accordance with law or not and this Court can only interfere where the trial Court has acted either without jurisdiction or has failed to exercise its

jurisdiction or there is patent illegality. In the present case, none of these three are present and therefore, this is not a fit case where I should exercise any revisional jurisdiction. The criminal revision petition is, accordingly, dismissed.

CHIEF JUSTICE