

THE HIGH COURT OF TRIPURA
AGARTALA

CRL.REV.P. 60 OF 2015

Sri Suhash Ranjan Paul,
S/O. Lt. Swadesh Ranjan Paul,
Piyari Babur Bagan, Joynagar,
Agartala, P.O.-Agartala,
P.S. West Agartala,
District- West Tripura.

..... **Petitioner.**

- V e r s u s -

Smt. Abha Das (Paul),
W/O. Sri Suhash Ranjan Paul,

Presently residing at:-
C/o. Asish Kumar Das,
Of Ramnagar Road No.7, Agartala,
P.S. West Agartala, District West Tripura.

..... **Respondent.**

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the petitioner : Mr. R. Saha, Advocate.

For the respondent : None.

Date of hearing and : 24.08.2015.
delivery of judgment
and order.

Whether fit for reporting : **NO.**

JUDGMENT & ORDER (ORAL)

This petition is directed against the order dated 04.7.2015 passed by the learned Judge, Family Court, Agartala, West Tripura in case No.Misc.(Ex) 190 of 2015 whereby the

petitioner has been directed to deposit the maintenance payable to his wife.

2. The undisputed facts are that the petitioner was married to the respondent who filed a petition under Section 125 of the Code of Criminal Procedure (Cr.P.C.) and finally an order was passed whereby the maintenance was fixed at Rs.3,500/- per month and this amount was directed to be deducted from the salary of the petitioner-husband who was in Government service. The petitioner retired from service on 31.01.2015 and thereafter the employer stopped deducting the amount. The wife then moved an application under section 128 of Cr.P.C. praying that the husband be directed to pay her the amount of compensation. This application has been allowed and the petitioner-husband has been directed to pay the arrears of Rs.17,500/- w.e.f. 01.02.2015 till date.

3. The only ground raised is that the husband after his retirement is not earning the same amounts as what was his salary and, therefore, is unable to pay this amount. It is also stated that the husband has filed some application under section 127 of Cr.P.C. for reduction of the amount of maintenance. Even if the husband has filed such an application, he cannot presume that the amount is going to be reduced. He will have to continue to comply with the earlier order till an order is passed on his application under section 127 of Cr.P.C. He is legally duty bound to pay the amount already fixed @ Rs.3,500/- per month.

4. Therefore, I reject the petition. However, it is directed that the petition filed by the husband under Section 127 of Cr.P.C. shall be heard and disposed of by the learned Judge, Family Court within a period of 2(two) months from the date of production of this order before him. The Family Judge while assessing the maintenance shall not only look at the pension drawn by the petitioner but shall also take into consideration all retiral benefits such as, gratuity, leave encashment benefit etc. and shall direct the employer to produce before the Court what were all the retiral benefits given to the husband and thereafter shall assess the maintenance.

5. The petition is disposed of accordingly.

CHIEF JUSTICE