

THE HIGH COURT OF TRIPURA
AGARTALA

CRL.PETN. 48 OF 2015

1. Smt. Surjatapa Baishnab (Das),
W/O. Dr. Mridul Das,
Housing Board Complex,
Quarters No.J/101,
P.S.-East Agartala,
District-West Tripura;
Presently residing
C/O. Smti. Gopa Datta Baishnab,
Resident of I.T.I. Road, Near Agartala
Municipality Ward Office No.6,
Indranagar, P.S.-East Agartala,
District-West Tripura.
2. Dr. Mridul Das,
S/O. Late Manmohan Das,
Resident of Housing Board Complex,
Quarters No.J/101,
P.S.-East Agartala,
District-West Tripura.

..... **Petitioners.**

- V e r s u s -

The State of Tripura.

..... **Respondent.**

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA

For the petitioner No.1	: Mr. S. Lodh, Advocate.
For the petitioner No.2	: Mr. S.M. Chakraborty, Sr. Advocate, Ms. B. Chakraborty, Advocate.
For the respondent	: Mr. A. Ghosh, P.P.
Date of hearing and order	: 01.12.2015.
Whether fit for reporting	: NO.

ORDER

The petitioners are husband and wife. The parties were married on 18.06.1997 as per Hindu rites. They have two children; a daughter who is now aged about 16 years and a son aged about 8 years.

2. Like in any matrimonial home disputes arose between husband and wife also. The wife lodged a written complaint before the Agartala Women Police Station on the basis of which Women P.S. Case No.63 of 2010 was registered against the husband under Section 498-A of the IPC. After investigation, Charge-sheet was filed and the case has been registered as PRC 605 of 2010. This case is pending in the Court of Judicial Magistrate First Class, Agartala, West Tripura, Court No.4.

3. The petitioner No.1 wife had also filed a petition under Section 125 of the Code of Criminal Procedure (Cr.P.C) claiming maintenance for herself and her two children. Along with the petition, she had also filed another petition for grant of interim maintenance and the learned Judge, Family Court, Udaipur, South Tripura awarded Rs.7,400/- each to the wife and the two minor children, i.e. a sum of Rs.22,200/- per month in all w.e.f. February, 2011 as interim relief. Thereafter, the matter was finally decided and the Family Judge held that the wife was entitled to Rs.12,000/- per month as maintenance, the daughter as Rs.10,000/- per month and the son Rs.6,000/- per month, i.e. a total of Rs.28,000/- per

month w.e.f. 08.11.2010. A revision petition was filed challenging the said order in this Court which is still pending. That revision petition is Crl. Rev. Petition 81 of 2011.

4. It would be pertinent to mention that the High Court had partly stayed the order of grant of maintenance subject to the condition that the husband was directed to pay Rs.20,000/- per month to the wife for her maintenance and of the children.

5. The husband filed a suit for Restitution of Conjugal Rights before the learned Family Judge, Agartala and that suit is pending. In that suit, an application has been filed by the husband for withdrawing the same which is fixed on 21.12.2015.

6. The case of the petitioners is that they have now amicably resolved the disputes outside the Court. The husband is looking after the children and the parties have decided to withdraw all the cases filed by each one of them.

7. At the outset, I may appreciate that both the parties have at the intervention of other interested persons agreed to settle their disputes and withdraw the cases against each other. Even more importantly in para-6(iv) of the petition, the parties on affidavit have stated as follows:-

“6(iv). Both the parties would respect each other, and would do the needful for the betterment of their children, and in future they would reside together.”

8. The terms and conditions of this settlement are embodied in the agreement which reads as follows:-

“(i) The petitioner No.1 does not want to proceed with the criminal case bearing No.PRC 605 of 2010, pending before the Ld. Judicial Magistrate First Class, Agartala, West Tripura, Court No.4, against the petitioner No.2;

(ii) For maintaining the family expenditure and educational expenses of children, the petitioner No.2 would pay Rs.20,000/- per month to the petitioner No.1, and if in future, any further amount is required, the petitioner No.2 would provide the same; and due this settlement, the petitioner No.1 would not press the Order dated 13.09.2011, passed by the Ld. Judge, Family Court, Udaipur, South Tripura, in Cr.Misc/ FC/ UDP/ 50/ 2010, and accordingly, as per joint prayer, Crl.Rev.P. 81 of 2011 (arising out of Cr.Misc/FC/UDP/50/2010), pending before this Hon’ble Court, would be withdrawn.

(iii) The petitioner No.2 does not want to proceed with the T.S.(RCR) 345 of 2013, pending before the Ld. Judge, Family Court, Agartala, West Tripura, and accordingly, on 10.08.2015, both the parties jointly had filed an application to withdraw the same.”

9. The parties have two grown up children and I would commend to the husband and wife to not only look at their own interest but also at the interest of the children because if there is harmony in the family, then that is the best thing that can be achieved. Separation should only be resorted to at the last but first of all, attempt should be made to live together. The husband has

agreed to pay maintenance @ Rs.20,000/- per month to the wife for herself and the two children till a final settlement is arrived at in future and has agreed to withdraw the criminal revision petition and the husband has stated that in case this agreement is accepted to by the wife, he shall not press the revision petition.

10. The wife has stated that she does not want to proceed with criminal case being PRC 605 of 2010. This is a case under Section 498-A of IPC and is not compoundable and, therefore, the need to approach this Court under Section 482 Cr.P.C.

11. The husband petitioner No.2 has also stated that he does not want to proceed with the T.S.(RCR) 345 of 2013. By my last order, I had called for the records of all the three cases. This petition jointly filed by the petitioners under Section 482 is accepted. It is interest of all concerned that is the husband, the wife, the two children and society at large that this longstanding dispute between husband and wife comes to an end. When the wife herself does not want to lead any evidence, till now evidence has not been recorded in the said case. If the wife does not want to lead any evidence, that case will finally have to be dismissed. Therefore, it is better that it is disposed of as amicably settled. Therefore, though normally a case under Section 498-A cannot be compounded in exercise of the powers vested in this Court under Section 482 of the Cr.P.C. and in the larger interest of justice, to meet the specific requirements of this case and to secure the ends of justice, the settlement/compromise entered into between the

parties is accepted and the complaint under Section 498-A of IPC is permitted to be disposed of as having been withdrawn and settled amicably between the parties.

12. A copy of this order shall be placed on the file of PRC 605 of 2010 and based on this order, the learned Magistrate will dispose of the complaint.

13. Since the agreement between the parties has been accepted, a copy of this order shall also be placed on the RCR application No.T.S.(RCR) 345 of 2013 and the learned Judge, Family Court will dispose of the RCR petition on the next date having been withdrawn on the strength of the orders passed by this Court even if the parties are not present before him on the next date.

14. The petition is disposed of accordingly.

15. Send down the lower court records forthwith.

CHIEF JUSTICE