

**IN THE HIGH COURT OF TRIPURA**  
**AGARTALA**

**CRL. REV. P. No.85 of 2014**

**Shri Amal Kumar Das,**  
son of Shri Nishi Kanta Das, resident of  
Shibnagar, Bishalgarh, P.S. Bishalgarh,  
District- Sepahijala, Tripura.

..... **Petitioner**

**- V e r s u s -**

**Smt. Shipra Paul (Das),**  
wife of Shri Amal Kumar Das, daughter  
of Sri Narayan Chandra Paul, Vill-  
Madhupur Hospital Para, Near Pump  
House, Ward No.4, P.O. Madhupur, P.S.  
Bishalgarh, District – Sepahijala, Tripura

..... **Respondent**

**BEFORE**  
**THE HON'BLE MR.JUSTICE S. TALAPATRA**

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

For the respondent : Mr. S. Ghosh, Advocate.

Date of hearing and : **24.02.2015**  
delivery of judgment & order

Whether it is fit for reporting :

| Yes | No |
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|     | √  |

**JUDGMENT & ORDER (ORAL)**

Heard Mr. R. Das, learned counsel appearing for the petitioner as well as S. Ghosh, learned counsel appearing for the respondent.

**[2]** This petition filed under Section 19(4) of the Family Courts Act, 1894 is directed against the order 03.11.2014 delivered in Misc. 124 of 2014 by the Judge, Family Court, Agartala, West Tripura. By the said order dated 03.11.2014, the respondent, the petitioner herein has been directed to pay

monthly maintenance allowance @ Rs.2,000/- per month for the opposite party No.1 and another Rs.1,000/- for their minor daughter namely, Anushri Das, the opposite party No.2. It has been further directed that such maintenance allowance shall be paid w.e.f. 01.11.2014 and the same shall have to be sent within 10<sup>th</sup> day of every English calendar month by money order to the address of the petitioner No.1, the respondent herein and the cost of the money order shall be borne by the respondent or if the respondent may collect the details of the bank account of the petitioner No.1, the respondent herein, the said maintenance allowance may be remitted to the bank account of the respondent.

**[3]** Mr. R. Das, learned counsel appearing for the petitioner has raised a serious objection contending that the Family Court did not consider whether the respondent left the matrimonial home with any sufficient reason or not. He has further submitted that the petitioner had taken all initiatives to bring the respondent to her matrimonial home and to lead a peaceful conjugal life. Despite that the respondent has been living separately and staying at her parents' home. Mr. Das, learned counsel has further submitted that in terms of the provisions of Section 125(4) of Cr.P.C., if wife leaves the matrimonial home without any sufficient reason, she is not entitled to get the maintenance allowance. As such the

impugned order dated 03.11.2014 is required to be interfered with. He has further submitted that the petitioner has instituted a suit for restitution of conjugal rights which is pending in the court of the Judge, Family Court, Agartala, West Tripura.

**[4]** From the other side, Mr. S. Ghosh, learned counsel appearing for the respondent has submitted that by adducing evidence, the respondent, the petitioner in case No. Misc. 124 of 2014 has proved beyond preponderance of the probability that she was tortured physically. She was maltreated by the petitioner and despite her initiative to adjust with such situation she was further tortured and battered and ultimately she had to leave the matrimonial home with her suckling baby on 22.06.2012 and since then she has been living at her parental home and the petitioner refused to maintain her. Having persuaded by such circumstances, she had approached the Judge, Family Court, Agartala, West Tripura by filing an application under Section 125 of Cr.P.C. for maintenance. The Family Court has directed for paying the maintenance allowance by the impugned order and there is not illegality and hence, this petition be dismissed without any further consideration.

**[5]** This Court has scrutinized the oral testimonies of Shipra Das (PW-1), the respondent herein, Sri Narayan Chandra Paul (PW-2), the father of the respondent and also the oral testimonies of Sri Amal Das (DW-1), the petitioner herein, Sri

Kajal Kanti Roy (DW-2), Sri Pritam Bhowmik (DW-3) and Sri Rajesh Datta (DW-4). It appears that the petitioner herein by adducing witnesses had made a robust endeavour to prove that the respondent had left the matrimonial home without any sufficient cause and after a series of initiatives taken by the petitioner she refused to join him for leading peaceful conjugal life. He has also admitted that their daughter Anushri Das has been living with the respondent.

**[6]** DW-2, Sri Kanti Rani Roy has stated that for the matrimonial dispute two meetings were convened in their locality when the respondent was advised not to leave the matrimonial home whimsically.

**[7]** DW-3, Pritam Bhowmik has only stated that the respondent is living in her parents' house. DW-4, Sri Rajesh Datta has stated that on two occasions he accompanied the petitioner to the parents' house of the respondent when the petitioner tried to impress upon the respondent for coming back to the matrimonial home. The Family Court did not believe the versions of PWs-1 and 2 to hold that it is apparent that the respondent had no congenial situation in the matrimonial home.

**[8]** Having appreciated the evidence afresh, this Court does not find any infirmity in the finding as returned by the Family Court. Accordingly, this petition stands dismissed.

**[9]** The petitioner is directed to pay the arrears of maintenance within 30<sup>th</sup> April, 2015 and also to continue to pay the monthly maintenance regularly in terms of the order dated 03.11.2014. It is needles to mention that if the petitioner does not pay the monthly maintenance in terms of the order, the respondent shall be at liberty to take action without further notice, either in terms of Section 128 of Cr.P.C. and/or 125 (3) of the Cr.P.C..

Before parting with the records it is to be noted that this Court has not observed anything on merit whether the respondent has left the matrimonial home for any sufficient cause or reason or not, as that would be decided in the proceeding as instituted by the petitioner under Section 9 of the Hindu Marriage Act, 1955. But this Court *prima facie* does not find any infirmity in the impugned order granting maintenance. It is further expected that at the instance of the well wishers or in the court led reconciliation or mediation both the petitioner and the respondent shall come together for leading a peaceful conjugal life and for welfare of their daughter, Anushri Das.

**JUDGE**

*Sujay*