

IN THE HIGH COURT OF TRIPURA
AGARTALA

CRL. REV. P. No.87 of 2014

Shri Biswajit Debnath,

son of Shri Khokan Debnath, resident
of Durgabari Tea Garden, P.O.
Tebaria, P.S. Airport, District- West
Tripura.

..... **Petitioner**

- V e r s u s -

Smt. Subhadra Debnath,

wife of Shri Biswajit Debnath,
daughter of Matilal Debnath, resident
of East Durgapur, P.O. Chowmuhani
Bazar, P.S. Amtali, District – West
Tripura.

..... **Respondent**

BEFORE
THE HON'BLE MR.JUSTICE S. TALAPATRA

For the petitioner : Mr. J. Bhattacharji, Advocate.

For the respondent : Ms. Y. Taneja Bhattacharji, Advocate.

Date of hearing and : **19.02.2015**
delivery of judgment & order

Whether it is fit for reporting :

Yes	No
	√

JUDGMENT & ORDER (ORAL)

Heard Mr. J. Bhattacharji, learned counsel appearing
for the petitioner as well as Ms. Y. Taneja Bhattacharji, learned
amicus curiae, who has been engaged by this court for
presenting the case of the respondent.

[2] By this petition filed under Section 19(4) of the
Family Courts Act, 1894, the order 06.11.2014 delivered in case

No. Misc. 372 of 2013 by the Judge, Family Court, Agartala, West Tripura has been questioned primarily on the grounds that:

(i) despite the vital documents filed before the Judge, Family Court, Agartala, West Tripura those documents were not considered,

(ii) the respondent deserted the petitioner without any sufficient cause and

(iii) the quantum of maintenance as decided by the Family Court has been so decided without considering the income of the petitioner as well his economic status.

[3] Mr. Bhattacharji, learned counsel has submitted that the respondent cannot take advantage of wrong that she committed.

[4] From the other side, Ms. Y. Taneja Bhattacharji, learned *amicus curiae* has submitted that from the scrutiny of the testimonies of the witnesses, it is apparent that the respondent left the matrimonial home as she could not bear the cruelty as afflicted on her during her stay in the matrimonial home. Ms. Y. Taneja Bhattacharji, learned *amicus curiae* has in particular referred to the testimony of PW-1, the respondent herein, where she has elaborately stated that how she was treated in the matrimonial home and for purpose corroboration of her statement, she has referred to the testimony of DW-3, Sri Nibaran Debnath who has also categorically stated that he

understood from the village elders meeting that the petitioner used to suspect the respondent and that was the reason which broke out sometimes in quarrels.

[5] On appreciating the rival submissions and on scrutiny of the records, this Court finds that the allegations made by Mr. Bhattacharji, learned counsel appearing for the petitioner that the petitioner filed some documents before the court below are entirely unfounded. At any point of time, no such document was filed before the Family Court, Agartala, West Tripura. As regards the other objections taken by the petitioner that there was no sufficient reasons of leaving the matrimonial home by the respondent is on the face of record cannot survive as the respondent has categorically stated how she was treated in the matrimonial home and that statement has been corroborated by DWs-1 & 3. In a proceeding under Section 125 of the Cr.P.C. which is summary in nature, it is not required that Court shall go for sufficiency of the evidence, rather it is a matter of *prima facie* satisfaction.

[6] Having considered the finding as returned by the Judge, Family Court, Agartala, West Tripura, this Court does not find any infirmity in the finding so far the assessment of the entitlement is concerned. This Court finds that a minimal maintenance allowance has been granted in favour of the

respondent and that does not warrant any interference at all in these days of the price-spiral. Hardly a person can live on a sum of Rs.1500.

[7] Having held so, this petition is dismissed.
Send down the LCRs forthwith.

Ms. Y. Taneja Bhattacharji, learned *amicus-curiae* shall get a fee of Rs.5,000/- (Rupees Five thousand) as a whole for rendering assistance to this Court, on her submission of a copy of this order and a bill to the Secretary, Law Department, Government of Tripura. The said department shall reimburse the amount within 2(two) months from the day of receipt of such bill.

A copy of this order be furnished to the learned counsel for the parties free of cost.

JUDGE

Sujay