GAHC010029142026

2026:GAU-AS:15217

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Rev.P./79/2026

NOIMUDDIN AND 2 ORS.
S/O LATE NEBU ALI
R/O VILL- SHIMULBARI
P.S. AND P.O. KACHUMARA, DIST. BARPETA, ASSAM, PIN-781127

2: JAIDUL ISALAM
S/O NOIMUDDIN
R/O VILL- SHIMULBARI
P.S AND P.O. KACHUMARA
DIST. BARPETA
ASSAM
PIN-781127.

3: SAMIRAN NESSA
W/O MOIDUL ISLAM
R/O VILL- SHIMULBARI

P.S. AND P.O. KACHUMARA
DIST. BARPETA
ASSAM
PIN-78112

VERSUS

THE STATE OF ASSAM AND ANR
REP BY THE PP, ASSAM

2:REZINA AHMED
D/O HABIBAR RAHMAN
R/O VILL- KACHUMARA
P.S. AND P.O. KACHUMARA
DIST. B ARPETA
ASSAM
PIN-78112

Advocate for the Petitioner : MD A ALI,

Advocate for the Respondent : PP, ASSAM, MR S ISLAM(R2)

BEFORE
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

ORDER

08.10.2026

1. Heard Mr. A. Ali, learned counsel appearing for the petitioners. Also heard Mr. D.P. Goswami, learned APP appearing for the respondent No.1 and Mr. S. Islam, learned counsel appearing for the respondent No.2.

2. By this application filed under Sections 438 and 442 of the BNSS, 2023 read with Section 528 of the BNSS, 2023 as well as Article 227 of the Constitution of India the petitioner has challenged the orders dated 27.06.2025 and 20.11.2025 passed by the learned Additional Chief Judicial Magistrate, Barpeta in connection with C.R. Case No. 523 of 2023 whereby the petitioner was directed to pay maintenance of Rs. 6,000/- per month to Respondent No. 2 with effect from the date of filing of the application. The learned Court below also directed Respondent Nos. 1, 3, 4 and 8 who are stated to be relatives of the petitioner to pay compensation of Rs. 2,00,000/- to Respondent No. 2 within a period of one month from the date of the said order. The petitioner has also challenged the distress warrant issued against him vide order dated 20.11.2025.

3. The petitioner by way of the present application has not challenged the maintenance amount directed to be paid to Respondent No. 2. The petitioner is aggrieved only by that part of the order dated 27.06.2025 whereby the petitioners were directed to pay compensation of Rs. 2,00,000/- to Respondent

No. 2.

4. The learned counsel appearing for the petitioners submits that although a bald statement has been made in the complaint that the petitioners had instigated the husband of Respondent No. 2 to demand dowry no specific particulars or material in support of such allegation have been stated in the said complaint. He further submits that although Respondent No. 2 has used the expression "shared household", she has not stated that the petitioners shared the common household with her and her husband. He submits that the petitioners were residing separately and did not share the common household with Respondent No. 2 and her husband and as such the petitioners could not have been directed to pay compensation to Respondent No. 2 under the Protection of Women from Domestic Violence Act, 2005.

5. The learned counsel appearing for Respondent No. 2 however submits that both in the complaint petition as well as in the order passed by the learned Court below, it has been categorically stated that the petitioners resided together with Respondent No. 2 and her husband and that at their instigation the husband of Respondent No. 2 subjected her to mental and physical cruelty. The learned counsel for Respondent No. 2 further submits that the petitioners were in a domestic relationship with Respondent No. 2 within the meaning of Section 2(f) of the Protection of Women from Domestic Violence Act, 2005.

6. I have heard the learned counsel for the parties and perused the records. It is seen from the order dated 27.06.2025 that the same was passed ex parte. It is recorded in the said order that none appeared on behalf of the respondents and that no written statement was filed by the petitioners. It is further seen that

all the witnesses examined on behalf of Respondent No. 2 were her relatives and that no independent witness was examined on her behalf.

7. It is the mandate of law that while adjudicating an application for maintenance an affidavit disclosing the assets and liabilities of the husband of Respondent No. 2 ought to be called for. From the said order, it is seen that Respondent No. 2 had filed her affidavit of assets and liabilities in the course of the proceedings. However, although the petitioners had initially appeared before the learned Court below, they subsequently stopped appearing and as such did not file their written statement.

8. It has also been submitted by the learned counsel appearing for the petitioners that the petitioners were residing separately and did not share a common household with Respondent No. 2 and her husband.

9. In view of the aforesaid facts and circumstances, this Court deems it fit and proper to set aside the order dated 27.06.2025 as well as the subsequent order issuing the distress warrant. The learned Court below shall afford an opportunity of hearing to the petitioners and pass fresh orders in accordance with law.

10. The learned Court below shall also afford an opportunity to the husband of Respondent No. 2 to file an affidavit disclosing his assets and liabilities and thereafter rehear the matter afresh. The entire exercise shall be completed within a period of two months from today.

11. However, if the petitioners fail to appear before the learned Court below and file their written statement, the learned Court below shall be at liberty to proceed with the matter and pass appropriate orders in accordance with law.

12. With the aforesaid observations and directions, the petition stands

disposed of.

JUDGE

Comparing Assistant