GAHC010147262026

2026:GAU-AS:15442

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

Case No. : I.A.(Crl.)/717/2026
in
Crl. Rev. P. 283/2026

KOHINUR HOQUE
S/O GAHAR UDDIN, RESIDENT OF VILLAGE SALBARI PART-I, P.O. GAURNAGAR, P.S. LAKHIPUR, DISTRICT GOALPARA, ASSAM.

VERSUS

MUSSTT NUR JAHAN
D/O KODON ALI MOLLAH, W/O KOHINUR HOQUE, RESIDENT OF VILLAGE SALBARI PART-I, P.O. GAURNAGAR, P.S. LAKHIPUR, DISTRICT GOALPARA, ASSAM

Advocate for the Petitioner : MR. M A SHEIKH, MS F INTAZ,MR. W A SHEIKH,MS S A KHALIFA

Advocate for the Respondent : ,

BEFORE

HON'BLE MRS. JUSTICE MITALI THAKURIA

ORDER

13-10-2026

Heard Mr. M. A. Sheikh, learned counsel for the applicant and Mr. H. Das, learned counsel for the respondent.

2. The present interlocutory application has been filed praying for setting aside and quashing the order dated 05.06.2026, whereby NBWA was issued in connection with D.V. Case No. 213/2017 for non-payment of maintenance allowance.

3. It is submitted by Mr. Sheikh, learned counsel that initially the respondent instituted a maintenance case, wherein the maintenance was granted to the respondent to the tune of Rs.1800/- per month and thereafter, suppressing the fact she again instituted a DV Case, wherein maintenance allowance was granted for Rs. 4,000/- including the maintenance of her child.

4. He further submitted that he was paying the maintenance in the 125 CrPC proceeding, but as the NBWA has already been issued against the applicant in the DV Act, he could not appear before the Court for payment of maintenance allowance.

5. However, the order of the DV Case, wherein he was asked to pay maintenance of Rs.4,000/- per month is already under challenge and in that regard he has already filed the connected Crl. Rev. P. No. 283/2026. Accordingly, he prayed that the NBWA issued against the present applicant may be stayed/recalled and the order dated 05.06.2026 may be set aside and quashed at this stage.

6. Mr. Das, learned counsel for the respondent submitted in this regard that the maintenance was granted to the respondent in the year 2014 under the 125 CrPC proceeding, wherein also the petitioner never paid the maintenance allowance regularly and till date there is an arrear of Rs.80,200/- which is yet to be paid by the applicant.

7. He further submitted that coming to the maintenance allowance granted to the respondent in connection with the DV case also there is a huge arrear amount of Rs.4,32,000/-, which is yet to be paid by the applicant and the learned Trial Court initially issued distress warrant was also issued against the petitioner/applicant, but inspite of that he did not pay the money towards the maintenance allowance and for which the learned Trial Court had to issue NBWA against the present applicant/petitioner.

8. Considering the submission made by the learned counsel for the parties, it is seen that the order passed in the DV Case is under challenge as the order of maintenance was passed inspite of the fact that there was another maintenance allowance in favour of the respondent under the 125 CrPC proceding.

9. But it is seen from the submission of the learned counsel for the respondent that there is a huge arrear pending not only in the present DV case, but in the maintenance case also there is a huge pendency of arrear amount.

10. So considering as these aspects of the case, the learned Trial Court had to issue NBWA against the applicant/petitioner for realization of the arrear amount.

11. However, considering the fact that the matter is under challenge, this Court is of the opinion that the NBWA issued against the present applicant/petitioner may be recalled/stayed till returnable date with a further direction to the petitioner to pay some installment towards the arrear amount

due in the 125 CrPC proceeding.

12. With the above observation and direction, this interlocutory application stands disposed of.

JUDGE

Comparing Assistant