GAHC010251372025

2026:GAU-AS:16813

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

Case No. : Crl.Rev.P./491/2025

CHAND MAHAMMAD ALI
S/O LATE JAHUR ALI, R/O VILL. ISLAMPUR, SAPKATA, P.O. AND P.S. MUKALMUA, DIST. NALBARI, PIN 781126 ASSAM.

VERSUS

NURJAHAN BEGUM
W/O CHAND MAHAMMAD ALI, R/O VILL. MUKALMUA, P.O. AND P.S. MUKALMUA, DIST. NALBARI, PIN 781126, ASSAM.

Advocate for the Petitioner : MR. S C BISWAS, MS. J GHOSH

Advocate for the Respondent : MR. M HUSSAIN, MR. I A HAZARIKA,MR. M HOQUE

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA
HONOURABLE MR. JUSTICE NCHUMBEMO MOZHUI

ORDER

Date : 16-11-2026
(M. Zothankhuma, J)

1. Heard Mr. S.C. Biswas, learned counsel for the petitioner-husband. Also heard Mr. M. Hussain, learned counsel for the respondent-wife.

2. By way of this application under Sections 438/442 of the BNSS, the petitioner has challenged the Judgment and Order dated 11.09.2025 passed by the learned Principal Judge, Family Court, Nalbari in Case No. 234 of 2023, by which the petitioner has been directed to pay maintenance of Rs.3,000/- per month to the respondent-wife with effect from 14.12.2023.

3. The petitioner's case is that he is 62 years old and has got no source of income. Further, he wants his wife back, who, however, has left him. He also submits that the petitioner having no source of income, there is no way he can maintain his wife.

4. On the other hand, the learned counsel for the respondent-wife submits that there is no infirmity with the decision of the learned Family Court in view of the fact that the petitioner being an able-bodied person with no physical infirmity, the notional income of the petitioner was taken to be Rs.9,000/- by the Court. As such, the direction to pay Rs.3,000/- as maintenance was fair.

5. We have heard the learned counsels for the parties.

6. The grant of maintenance requires the Court to see whether the wife can maintain herself and also whether the husband has sufficient means to maintain the wife, as was held by the Hon'ble Supreme Court in the case of ***Sunita Kachwaha and Ors. Vs. Anil Kuchwaha,*** reported in ***(2014) 16 SCC 715.***

7. In the present case, the learned Family Court has held that from the

age of the petitioner, it appears that he is an able-bodied person and has no physical infirmity. The learned Court has also held that the husband is bound to maintain his wife, who has no sufficient means to maintain herself. However, without coming to any finding as to what was the monthly salary/income of the petitioner-husband, the learned Family Court has taken into account the fact that the able-bodied petitioner should not be idle and the notional income of the petitioner would have been around Rs.9,000/-. It was on this ground that the learned Family Court had directed payment of Rs. 3,000/- per month to the respondent-wife.

8. We are of the view that the learned Trial Court should have tried to come to a finding, as to whether the petitioner-husband and the respondent-wife were having any income, by filing Affidavits of Assets and Liabilities in terms of the judgment of the Hon'ble Supreme Court in the case of ***Rajnesh Vs. Neha & Anr.,*** reported in ***(2021) 2 SCC 324.***

9. However, in the present case, none of the parties have submitted any affidavit disclosing their assets and liabilities before the learned Trial Court. In view of the above, the matter should be remanded back to the learned Trial Court, wherein the parties shall submit affidavits disclosing their assets and liabilities and thereafter, the learned Trial Court shall, after giving opportunity to the parties to cross-examine the other side with regard to their affidavits, take a final decision with regard to the prayer for maintenance under Section 125 Cr.P.C, which is now Section 144 of the BNSS.

10. Accordingly, in view of the above reasons, the impugned the Judgment

and Order dated 11.09.2025 passed by the learned Principal Judge, Family Court, Nalbari in Case No. 234/2023 is hereby set aside. The matter is remanded back to the learned Principal Judge, Family Court, Nalbari, to be listed on 17.12.2026, wherein the parties herein shall both submit their affidavits, disclosing their assets and liabilities.

11. The revision petition is accordingly disposed of.

JUDGE **JUDGE**

Comparing Assistant