

GAHC010013482025



2026:GAU-AS:165

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

Case No. : Crl.Pet./70/2025

SMTI PINKI BARUAH
W/O SRI TARUN BARUAH
D/O SRI UTTAM NEOG,
R/OBARPATHAR,PALASGURI
P.S.AND DIST.BONGAIGAON,ASSAM

VERSUS

TARUN BARUAH
S/O LATE PHANINDRA BARUAH
R/O PURANI BONGAIGAONJHAKUAPARA,P.O.,P.S.,AND DIST.
BONGAIGAON, ASSAM

Advocate for the Petitioner : DR. P AGARWAL, LEGAL AID COUNSEL

Advocate for the Respondent : ,

BEFORE
HONOURABLE MR. JUSTICE PRANJAL DAS

ORDER

Date : 06.01.2026

Heard Dr. P. Agarwal, learned Legal Aid Counsel for the petitioner. None appears on behalf of the respondent on call.

2. The petitioner herein is invoking the jurisdiction under Section 528 BNSS (earlier Section 482 of Cr.P.C., 1972) seeking setting aside of the impugned judgment and order dated 22.05.2024 passed by learned Sessions Judge,

Bongaigaon in Criminal Revision Case No. 21/2023 and the impugned order dated 21.09.2023 passed by the JMFC, Bongaigaon in Misc. Case No. 03/2022.

3. As per order dated 17-12-2025 passed by this Court, notice was sent to the stated address which was received by his brother and service upon sole respondent was held to be completed.

4. Scanned copy of TCR pertaining to Misc. Case No. 03/2022 was called from the learned JMFC, Bongaigaon, but it has not yet been received.

5. The facts in brief are that the petitioner as first party/Pinki Baruah has preferred a petition seeking maintenance for herself and her two minor daughters invoking the provisions of section 125 CrPC (as it existed then). The respondent husband/second party appeared after notice before the JMFC, Bongaigaon and vide order 21.09.2023 the learned Magistrate was pleased to grant a monthly maintenance of Rs. 3000/- each to the two minor daughters of the petitioner. However, no maintenance was granted to the petitioner for herself. It is reflected in the said order of the learned JMFC in paragraph 24 that the respondent/husband has admitted in cross-examination that he is receiving Rs. 48,555/- as salary.

6. It is submitted by the learned Legal Aid Counsel that the respondent is a railway employee and in view of his admitted salary, the maintenance awarded to the daughters is very much on the lower side and that the petitioner should also have been granted maintenance as she is unable to maintain herself. The said order of the learned JMFC was taken up in revision before the learned Sessions Judge, Bongaigaon given rise to Criminal Revision No. 21/2023 which was disposed of on 22-05-2024 leaving the order of the learned JMFC undisturbed. In such backdrop, the petitioner is before this court.

7. In the course of argument, learned Legal Aid Counsel submits that at the time of adjudication of the claims for maintenance – no affidavit of assets, liabilities and income in terms of the judgment of the Hon'ble Supreme Court in the case of ***Rajneesh vs. Neha***, reported in **(2021) 2 SCC 324** – was before the learned court below and also the revisional court. Therefore, one of the essential materials was not before the courts below in passing the order of maintenance; though the admitted position regarding the salary of the respondent was available. It is submitted by the learned counsel that in these circumstances, perhaps the court can consider remanding back the matter for a fresh determination after calling for the income affidavits of both the sides in terms of provision laid in **Rajneesh (supra)**.

8. Needless to say that, the requirement of submitting affidavits of assets, liabilities and income in the judgment of Rajneesh (supra) is to impart greater objectivity to the adjudication and determination of maintenance and arrive at a realistic figure, considering the needs of the first party and paying capacity of the second party.

9. As the respondent side is also unavailable in the present adjudication before this Court, I find force in the limited prayer of the petitioner counsel and perhaps, such a course of action might assist in the process of arriving at a more effective adjudication though it will involve some more elapse of time.

10. Accordingly, in the facts and circumstances and in the backdrop of the above discussion – the impugned judgment and order 22.05.2024 passed by learned Sessions Judge, Bongaigaon in Criminal Revision Case No. 21/2023 and the impugned order dated 21.09.2023 passed by the JMFC, Bongaigaon in Misc. Case No. 03/2022 – are hereby set aside and the matter is **remanded** back to the court of the learned JMFC, Bongaigaon for fresh determination of claim for

maintenance of the petitioner for herself and her minor two daughters after calling for affidavit of assets liabilities and income of both the sides in terms of law laid down in **Rajneesh v. Neha (supra)**.

11. The evidence of the parties adduced during the earlier round of litigation would still be on record and learned JMFC, Bongaigaon after the remand, shall merely call for the income affidavits of both the sides and make a fresh determination taking into account the additional material in the form of the affidavits of assets, liabilities and income.

12. It is submitted by the learned counsel that as the petitioner and her daughters have been seeking maintenance for considerable period spending several years perhaps, it would be better to stipulate a time frame for the aforesaid exercise.

13. I have given my consideration to the matter. The learned court below may endeavour to conduct the aforesaid exercise of getting income affidavits and passing a fresh order, within a period of 3 (three) months from the date of first appearance of the petitioner before the learned JMFC, Bongaigaon on 28.01.2026.

14. The instant criminal petition stands disposed of on the aforesaid terms.

15. The Court appreciates the effort of the learned Legal Aid Counsel who will be entitled to the usual fees.

JUDGE

Comparing Assistant