

GAHC010026802015



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

Case No. : Crl.Rev.P./438/2015

JASHIM UDDIN LASKAR

S/O - SIRAJ UDDIN LASKAR, R/O VILL.- RANGIRGHAT PART- I, P.O.-
GOBINDANAGAR, P.S.- SILCHAR, DIST.- CACHAR.

VERSUS

MUSSTT. SAKILA BEGUM MAZUMDER

W/O- JASHIM UDDIN LASKAR, D/O- LT. FOFIQUE AHMED MAZUMDER,
VILL.- UTTAR KRISHNAPUR PART- I, P.S.- SILCHAR, DIST.- CACHAR, PIN-
788001.

Advocate for the Petitioner : MR.H MUBARAK, MR.H R A CHOUDHURY,MR.R A
CHOUDHURY,MR.A AHMED,**MR.I A HAZARIKA**

Advocate for the Respondent : , MR.M HAQUE,**MR.A Y CHOUDHURY**,,

BEFORE
HONOURABLE MRS. JUSTICE SHAMIMA JAHAN

JUDGMENT

Date : 23-02-2026

Heard Mr. I.A. Hazarika, learned counsel for the petitioner and Mr. A.Y. Choudhury, learned counsel for the sole respondent.

[2] By this application under Sections 397/ 401 of the Code of Criminal Procedure, 1973, the petitioner has challenged the impugned judgment and order dated 12.06.2015, passed by the learned Judicial Magistrate, First Class

(JMFC), Cachar, Silchar in Case No. CR (DV) 816/2013 filed by the complainant i.e. the respondent under Section 12 of the Protection of Women from Domestic Violence Act, 2005 by which the petitioner was directed to pay a sum of Rs. 7,000/-(Rupees seven thousand, only) per month towards the maintenance of the complainant with effect from the date of order within 10th of the day of every succeeding month. The petitioner is also challenging the appellate order dated 12.10.2015 passed by the learned Addl. Sessions Judge, Cachar, Silchar in Criminal Appeal No. 17/2015 by which the order of the learned JMFC, Cachar, Silchar in the aforementioned case has been upheld.

[3] Mr. I.A. Hazarika, learned counsel for the petitioner submits that the judgment and order passed by the trial Court as well as by the appellate Court was based on no evidence. He submits that the petitioner and the respondent married in the year 2007 and the respondent left the petitioner in the year 2010 and thereafter she had not filed any application or any case against the petitioner and that it is only after 3 (three) years i.e. in 2013 that the respondent has filed the instant case under the D.V. Act, being complaint case No. 816/2013. He also submits that the respondent in the year, 2013 only has filed the case under Section 498A IPC against the petitioner.

[4] The learned counsel for the petitioner further submits that the respondent has made bald allegation in the complaint inasmuch as he said since the day of marriage, the petitioner physically assaulted her and kept her outside the room at night and that the respondent alongwith the family members raised various disputes expressing their dissatisfaction towards the marriage on various grounds and that further they used to treat the respondent with cruelty both mental and physical. He alleged that she was physically assaulted to by the petitioner and his family members. The learned counsel for the petitioner

submits that only grounds shown in the said complaint is that the father of the petitioner alongwith the petitioner forcibly dragged the complainant out of her house, took her to a vehicle and left the complainant outside her house and fled away on 20.06.2013.

[5] The learned counsel for the petitioner further submits that the said allegation was not correct in view of the fact that after the complainant left the house of the petitioner on her own, the petitioner alongwith others had gone to the house of the complainant to bring her back. The learned counsel for the petitioner further submits that the respondent belonged to a well to do family and she from the date of marriage was not satisfied with the status of the petitioner and that she wanted to leave his family members and to stay elsewhere with him and for that she herself left the matrimonial house and stayed in her parents' house, more so, due to the fact that the petitioner was not willing to accept her proposal of living away from his parents.

[6] The learned counsel for the petitioner, therefore, submits that only ground for leaving the matrimonial house by the respondent was that she was having a higher standard of living before her marriage and she was not willing to stay with the petitioner in the standard that he lives. As such he submits that the respondent filed the complaint case very late only after getting the information that the petitioner would remarry. According to him, all the years the respondent was under the impression that the petitioner would take her and stay with her away from his parents' house.

[7] The counsel for the petitioner further submits that there are evidence on record i.e. in the statement of DW Nos. 2 and 3 that the petitioner have sent his relatives to the parental house of the complainant to convince her to return her to matrimonial house. He also submits that the certificate

produced during the proceedings issued by the Goan Panchayat also showed that there were extra judicial conciliation proceedings to bring back the complainant to her matrimonial house, which was exhibited as Ext. "K". He also submits that there was no domestic relationship between the petitioner and the respondent, since, three years have elapsed from the date of leaving the matrimonial house by the respondent, i.e. when the complaint was filed.

[8] The learned counsel for the petitioner as such submits that under Section 18 of the D.V. Act, it is provided that the Magistrate after giving opportunity of hearing to both the parties and on being prima facie satisfied that the domestic violence has taken place or is likely to take place may pass the protection order in favour of the aggrieved person and under Section 20 of the said Act, the Magistrate may direct the respondent to meet the expenses incurred and loss suffered by the aggrieved person which is not limited to maintenance for aggrieved person, which can be in addition to the order of maintenance passed under Section 125 of the Cr.P.C.

[9] The learned counsel for the petitioner submits that no prima facie case was established that domestic violence has taken place in the matrimonial house of the respondent. The learned counsel for the petitioner has submitted that the respondent has gone on her own to the house of her father and the allegations of violence that has been stated in the complaint petition are all omnibus statement and not based on any evidence. As such he submits that the petitioner is not entitled to pay any monetary relief to the respondent. He also submits that the petitioner has also pronounced Talaq to the respondent much after she left.

[10] Per contra, Mr. A.Y. Choudhury, learned counsel for the respondent submits that the petitioner and the respondent had shared house hold since the

day of the marriage on 09.04.2007 and that they were staying as husband and wife and since thereafter, the petitioner alongwith his family members used to misbehaved the complainant, treated her with cruelty both mental and physical and assault her too and finally on 20.06.2013, the petitioner assaulted the respondent with fist blows and kept the respondent outside the room and that in the next morning the petitioner and his father dragged the complainant out of their house, boarded her in a vehicle and left the complainant outside the house of her father and fled away. He further submits that the respondent on the belief that the petitioner would come and take her back to her matrimonial house, she waited for long and then when she came to know that the petitioner would remarry an another girl, then she lodged the complaint case as well as she ventilated her grievance by lodging FIR under Section 498A of the IPC.

[11] The learned counsel for the respondent further submits that the order dated 12.06.2015 was passed after considering the evidence on record. He submits that although the DW Nos. 2 and 3 stated that they have sent their relatives to the house of the parents of the complainant to bring her back but the said witnesses could not give any name of the persons who were sent to the house of the parents from her matrimonial house. He also submits that the certificate given by the Gaon Panchayat that reconciliation proceeding was done was also not proved according to law. He also submits that the petitioner had never tried to reconcile the marriage and instead, he pronounce Talaq on 3 (three) dates i.e. 18th November, 2013, 21st December, 2013 and 22.01.2014 and dissolved the marriage with the complainant, which she has challenged the validity thereof.

[12] The learned counsel for the respondent further submits that the petitioner was working as Assistant Teacher of Ramdulal H.S. School and that

his monthly income during the year, 2013 was stated to be in gross Rs. 33,910/- with the net salary of Rs. 22,835/- and that the salary as of now will be in lakh. The learned counsel for the respondent has further submitted that order of giving maintenance Rs. 7,000/- (Rupees seven thousand, only) per month is a meager amount. The learned counsel for the respondent further relied on the judgment and order passed by the learned appellate Court, which have upheld the judgment and order passed by the trial Court and have not interfered with the amount of maintenance allowed by the said Court.

[13] Considering the submissions made by the learned counsel for the parties, more so, the fact that in the complaint petition, the complainant has clearly stated that since the day of her marriage, the respondent and his family members i.e. petitioner and his family members used to torture her and misbehaved with her with cruelty both mental and physical and also assaulted her physically, to which the petitioner simply denied the said allegations. The petitioner in his written statement has alleged that the family members of the respondent was very well to do and she was not satisfied with the standard of living of the petitioner and she had left her matrimonial house on her own on 17.01.2010. He further stated in his written statement that the respondent i.e. the wife had mutually allured him with the marriage of the respondent. However, the fact remains that the marriage continued for 3 (three) years and no objection was raised during the same and there were no complaint, only in the year, 2010 when the petitioner and his father were stated to have left the respondent before her house. Every woman endeavours to save the marriage unless they are compelled to. Further, DW Nos. 2 and 3 had also stated that the relatives of the petitioner had gone for reconciliation of the marriage but they could not name as to who came to the house of the parents of the respondent.

Further in the year, 2013, the petitioner remarried. Further, the petitioner and his witnesses had not clearly ruled out the violence that was stated to have been inflicted upon the respondent barring the bald denial of the same.

[14] In view of the same, this court does not find it fit to interfere with the order of the trial Court dated 12.06.2015, passed in Case No. CR (DV) 816/2013 by the learned JMFC, Cachar, Silchar as well as the appellate court judgment and order dated 12.10.2015 passed by the learned Addl. Sessions Judge, Cachar, Silchar in Criminal Appeal No. 17/2015 in awarding of Rs. 7,000/- (Rupees seven thousand, only) per month as maintenance payable to the respondent.

[15] In the result, the criminal revision petition is dismissed.

[16] Send back the LCR.

[17] Further, it is directed that the trial Court to decide on the arrears to be paid to the respondent as well as the present amount.

JUDGE

Comparing Assistant