

GAHC010143362024



2025:GAU-AS:13429

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

Case No. : Crl.Rev.P./275/2024

RASHIDUL ISLAM
S/O LATE SADEK ALI, VILL- TEDARA PATHAR, P.O.-MANDIA, P.S.-
BAGHBAR, DIST- BARPETA, ASSAM, PIN-781308

VERSUS

SANIARA BEGUM
D/O SAHED ALI, VILL- 1 NO. BARDALANI, P.O.-MANDIA, P.S.-BAGHBAR,
DIST- BARPETA, ASSAM, PIN-781308

Advocate for the Petitioner : MR. R ISLAM, MR. M U MAHMUD,MR S ISLAM

Advocate for the Respondent : MR. R ALI, MR H A AHMED

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

JUDGMENT & ORDER (CAV)

Date : 26-09-2025

1. Heard Mr. M.U. Mahmud, the learned counsel for the petitioner. Also heard Mr. H.A. Ahmed, the learned counsel for the respondent.

2. This is an application u/s 438/442 BNSS challenging the impugned Final Order dated 19.06.2024 passed by learned Principal Judge, Family Court, Barpeta in F.C.(Crl.) Case No. 609/2022 u/s 125 Cr.PC whereby the petitioner was directed to pay maintenance allowance @ Rs. 10,000/- per month to the respondent from the date of filing of the application.

3. The case of the petitioner in brief is that the respondent filed an application u/s 125 Cr.PC seeking maintenance @ Rs. 30,000/- per month before the learned Principal Judge, Family Court, Barpeta with the allegation that only after 20 days of their marriage, she was subjected to cruelty on the instigation of the petitioner's mother. It is further stated that the petitioner is a CISF employee and during her stay with his mother-in-law, she was subjected to torture by demanding some gold ornaments and cash amount. Finding no other alternative the father of the respondent also gave Rs. 50,000/- along with gold ornaments to the petitioner but in spite of that she was again subjected to cruelty by the petitioner even in his place of posting. Her pregnancy is also terminated by compelling her to consume some medicine and the petitioner had extramarital affairs with other girl and finally she was driven out from her matrimonial house and she took shelter in her parental house and thereafter she lodged a case for maintenance.

4. It is further submitted by Mr. Mahmud that after receiving the notice, the petitioner appeared, contested the case and also filed his written statement along with the affidavit of assets & liabilities. He admitted the marriage and cohabitation, though denied all other allegations of mental and physical torture on the respondent. During the pendency of the said case, the respondent also filed another case before the learned Court, Barpeta under the D.V. Act, falsely implicating his parents. At the time of their marriage, petitioner was working as

a Constable in CISF. But, he left his job and at present he is working as a Driver and somehow maintaining his mother. It is further the case of the petitioner that the respondent left her matrimonial house by her own without any reasonable ground and for which she is not entitled to get any maintenance from the petitioner. After examination of PWs, the case was fixed for defence evidence. But, during that period there was an amicable settlement and the respondent agreed to withdraw the case pending in the Family Court and they again started their conjugal life. In the meantime, he joined his service and went to the place of posting leaving the respondent in his own house. But, subsequently it came to the knowledge of the petitioner that she did not withdraw the case and without informing the petitioner she contested the case. After hearing the petitioner side the learned Family Court had delivered his final order allowing the claim of maintenance filed by the respondent and directed the petitioner to pay Rs. 10,000/- per month from day of filing of the application.

5. It is further submitted by Mr. Mahmud that though the respondent filed her assets & liabilities along with her petition, but most of the paragraphs were not filled-up and especially the para 3 regarding the approximate expenditure and the bank statement etc. were not filled-up by the respondent including the income of the present petitioner etc. Except typing the proforma of the form, it was not duly filled-up which is required to be filled-up and as per the guideline of Hon'ble Supreme Court passed in case of **Rajesh v. Neha** (supra). But, without considering all these aspects of the case and the income of the petitioner, his liability and the written statement, the learned Principal Judge, Family Court has passed the order directing the petitioner to pay Rs. 10,000/- per month from the date of filing of the case. It is also not considered by the learned Principal Judge that it is the respondent who deserted him and left her

matrimonial house without any valid reason. More so, though the petitioner joined his service and presently working as a CISF, but it is not possible on his part to provide maintenance to the opposite-party/respondent as he has burden of his old ailing mother and other members of the family. He accordingly prayed for setting aside and quashing of the impugned final order dated 19.06.2024 passed in F.C.(CrI.) Case No. 609/2022 u/s 125 Cr.PC by the learned Principal Judge, Family Court, Barpeta.

6. Mr. Ahmed, the learned counsel for the respondent submitted in this regard that the petitioner has not paid any maintenance allowance to the respondent and till date the arrear maintenance accrued to Rs. 3,50,000/-. As per Order dated 18.09.2024, the petitioner was directed to clear the arrear amount but till date he has not complied with the order and thus the arrear amount is accrued to more than Rs. 3,50,000/-. The petitioner is working as a CISF Constable and he is getting salary more than Rs. 42,000/- per month. But, suppressing this fact he made a false statement in the WS that he is working as a Driver, giving up his service and also made a false statement in his assets & liabilities statement and tried to mislead the Court accordingly. But, in the same time he annexed his salary statement while filing the additional WS in the present case. Thus, he provided some false statement while filing his assets & liabilities statement only with a view to mislead the Court and also to deprive the present respondent from getting the maintenance from the petitioner.

7. Mr. Ahmed also raised issue of disputed signature of the petitioner in the salary statement as well as in the application of assets & liabilities. He further submitted that it is an admitted fact that some paragraphs of the assets & liabilities filed by the respondent was not properly filled-up as she had no bank statement nor she was employed to have any income source to be stated in the

form of assets & liabilities.

8. In that context Mr. Mahmud submitted that it is a fact that at the time of filing WS he resigned from his service. But, thereafter he was compelled to join in the service and after settlement of the case he again joined his service and went to his place of posting and thus he did not file any false statement at the time of filing his assets & liabilities along with the petition.

9. It reveals from the record that the marriage and cohabitation between the parties are not disputed and it is also not disputed that the respondent is residing separately since she left her matrimonial house. Though there is a statement made by the petitioner that there was a settlement between the parties and they again started living together but, there is no such evidence to substantiate the fact that the matter was amicably settled between the parties. Even though it is considered that there was settlement but, facts remain the same that the respondent staying separately in her parental house and thereafter she claimed maintenance from the petitioner. As pointed out by Mr. Mahmud, the learned counsel for the petitioner, it is seen that some parts of the assets & liabilities statement is not filled-up by the respondent at the time of filing her statement but, there is no evidence that she had any income of her own or she had maintained any bank statement at the relevant period. But, other particulars were filled-up by the respondent at the time of filing her assets & liabilities. In the same time, it is also seen that at the time of filing the assets & liabilities by the petitioner he shown his earning as Rs. 10,000/- per month but it is a fact that the petitioner is still in service and working as a CISF Constable. Thus, it cannot be denied that he is having a fixed income from his salary though there was no sufficient evidence that he has any other earning source from his landed property. In the same time, it is also admitted position

that the respondent has no source of income of her own and she is completely dependent on the present petitioner. As per the petitioner, for a period he resigned from his service and was working as a Driver earning Rs. 6,000/- per month. But, from the judgment passed by the learned Principal Judge, Family Court as well as from the annexed documents it is seen that at the time of adducing her evidence the respondent as a first party produced the salary certificate of the present petitioner for the month of March, 2024 wherefrom it is seen that as per the salary slip the gross income of the present petitioner in the March, 2024 was Rs. 41,580/- More so, vide the additional affidavit the petitioner also furnished his bank statement as well as the salary slip wherefrom also it is seen that his gross salary at present is Rs. 44,032/- and he is getting the net payment of 39,867/-. So even if it is accepted that during some period of time he was earning his livelihood by working as a Driver but, thereafter he again joined in his service and presently he is working as a Constable in CISF and being a permanent employee is also drawing good amount of salary towards his monthly income.

10. The learned Principal Judge, Family Court considered all these aspects of the case and also considered the fact that the respondent was subjected to mental and physical torture and for which she was bound to leave her matrimonial house and had to live separately from the petitioner.

11. So considering all aspects of the case, the learned Principal Judge rightly passed the order of maintenance amounting to Rs. 10,000/- per month in favour of the present respondent first party. Hence this Court finds no reason for interference in the judgment and order passed by the learned Principal Judge, Family Court, Barpeta in F.C.(Crl.) Case No. 609/2022.

12. Accordingly, this criminal revision petition stands dismissed and disposed

of.

JUDGE

Comparing Assistant