

GAHC010144052025



2026:GAU-AS:4958

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

Case No. : CrI.Rev.P./234/2025

SMTI. BOBY DAS
W/O- SRI KANTIRAM DAS.
D/O- LATE DEBEN BAISHYA.
R/O-- VILLAGE-BONGSHAR (ABHYAPURI PUM)
P. S.- SUALKUCHI
P.O.- BONGSHAR
DISTRICT- KAMRUP
PIN-781103
ASSAM

VERSUS

SRI KANTIRAM DAS
S/O- LATE DEBEN DAS.
PERMANENT R/O- VILLAGE-BONGSHAR (ABHYAPURI PAM)
P. S. - SUALKUCHI

P.O.- BONGSHAR
DISTRICT- KAMRUP
PIN-781103
ASSAM.
OFFICE ADDRESS- OFFICE OF THE COMMANDANT 10TH ABPN
KAHILIPARA
GUWAHATI-781034
ASSAM

Advocate for : DR. N DEKA
Advocate for : appearing for SRI KANTIRAM DAS

**BEFORE
HONOURABLE MR. JUSTICE SANJEEV KUMAR SHARMA**

Judgment & Order (CAV)

Date : 06-04-2026

- 1.** Heard Dr. N. Deka, learned counsel for the revision petitioner. Also heard Mr. S.K. Goswami, learned counsel for the sole respondent.
- 2.** The instant criminal revision petition arises out of the impugned order dated 26.05.2025 in the F.C (Criminal) Case No.462/2017 (under Section 125 of the Cr.PC, 1973).
- 3.** As per the version of the petitioner, the marriage between the parties was solemnized as per Hindu rites and rituals in the month of January 1997 and out of this wedlock three children were born. Since 2013, the respondent has been alleging an affair of the petitioner with his own brother and he filed a case for decree of divorce vide F.C. (Civil) Case No.741/2013 which was later on withdrawn by him in the year 2016 to persuade the petitioner wife to withdraw her domestic violence case vide C.R. (D.V.) Case No.16/2104 which was also withdrawn on a promise to pay a monthly maintenance of Rs.5,000/- to her by the respondent which the respondent stopped paying eventually. Hence, the petitioner preferred the F. C. (Criminal) Case No.4462/2017 under Section 125 of the Code of Criminal Procedure, 1973. The Principal Judge Family Court-I, Kamrup (Metro) at Guwahati passed the impugned order

dated 26-05-2025 by which the learned trial court passed order for maintenance for the petitioner and her three children. However, the learned trial court did not pass any maintenance for the son beyond his attainment of majority who is pursuing his graduation. Hence, this instant criminal revision.

4. The only substantive prayer in the instant revision is for setting aside of the impugned order to the extent of granting maintenance to the younger son of the parties only till attainment of majority and to extend maintenance to the said son till such time as he continues his studies or starts earning, whichever is earlier and also for enhancing the amount of maintenance to Rs. 15,000/- per month.

5. The learned counsel for the petitioner submits that the petitioner is a student who has completed the age of 18 years and is pursuing graduate studies for which maintenance is required beyond the age of majority.

6. In support of his aforesaid submission, the learned counsel for the petitioner has relied upon the decision of the Hon'ble Apex Court in ***Chandrashekar Vs. Swapnil and Anr.***, reported in ***2021 12 SCC 624***, wherein the Hon'ble Apex Court, in exercise of powers under Section 142 of the Constitution, directed, in the interest of justice, to pay maintenance to the child of the appellant until he completes his first-degree course following the High School Board Examinations.

7. The learned counsel for the petitioner has also referred to a decision of the Delhi High Court in ***Urvashi Agarwal and others Vs.***

Indarpal Agarwal, reported in **Manu/DE/1091/2021 dated 14.06.2021**, wherein a learned Single Judge of the said High Court had held that it cannot be said that the obligation of a father would come to an end when his son reaches 18 years of age and the entire burden of his education and other expenses would fall only on the mother in view of the rising cost of living and it is not reasonable to expect that the mother alone would bear the entire burden for herself and for her son from the maintenance given by the husband's father, and accordingly directed interim maintenance from the date of attaining majority till completion of graduation or commencement of earning, whichever is earlier.

8. Section 125(1) Cr.PC mandates four categories of persons who would be entitled to maintenance as follows :-

125. Order for maintenance of wives, children and parents.

(1) If any person having sufficient means neglects or refuses to maintain –

(a) his wife, unable to maintain herself, or

(b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself, or

(d) his father or mother, unable to maintain himself or herself, a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such

monthly rate [* *] [The words "not exceeding five hundred rupees in the whole" omitted by Act 50 of 2001, w.e.f. 24.9.2001.], as such Magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to time direct :*

Provided that the Magistrate may order the father of a minor female child referred to in clause (b) to make such allowance, until she attains her majority, if the Magistrate is satisfied that the husband of such minor female child, if married, is not possessed of sufficient means.

[Provided further that the Magistrate may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this sub-section, order such person to make a monthly allowance for the interim maintenance of his wife or such child, father or mother, and the expenses of such proceeding which the Magistrate considers reasonable, and to pay the same to such person as the Magistrate may from time to time direct.

Provided also that an application for the monthly allowance for the interim maintenance and expenses of proceeding under the second proviso shall, as far as possible, be disposed of within sixty days from the date of the service of notice of the application to such person.] [Inserted by Act 50 of 2001, Section 2 (w.e.f. 24-9-2001).]

9. From the above clause (b) of Section 125(1) Cr.PC, it is abundantly clear that the statute has curtailed the period of maintenance to the child till he or she attains majority, whereas clause (c) thereof stipulates that such maintenance can be granted, even after attainment of majority when the child, not being a married daughter, by reason of any physical or mental abnormality

or injury, is unable to maintain itself.

10. As rightly pointed out by learned counsel for the respondent, the Hon'ble Apex court in *Chandrashekar (supra)* had directed payment of maintenance beyond the age of majority in exercise of its powers under Section 142 of the Constitution of India and the High Court lacks any similar power. In the respectful view of this Court, the High Court in exercise of its revisional jurisdiction cannot issue a direction that is plainly contrary to law, even for the purpose of advancing the object of the statute, which is prevention of destitution and vagrancy. In fact, the intent of the legislature while enacting Section 125(1) Cr.PC is quite clear in that the benefit of the said section has been expressly restricted till attainment of the age of majority by the child.

11. Furthermore, the petitioner's son had attained majority way back in the year 2021 and therefore, there arises no question of enhancing the monthly maintenance to Rs. 15,000/- or any other amount, since the said son of the petitioner has been a major for the last five years and hence, not entitled to maintenance otherwise in view of clause (b) of Section 125(1) Cr.PC.

12. In view of the above, I do not find any merit in the instant petition. Accordingly, the criminal revision petition stands dismissed.

JUDGE