TRHC010009592026

2026:THC:1368

HIGH COURT OF TRIPURA
AGARTALA
Crl. Rev. P. No.37 of 2026

…. Revision Petitioner.

Versus

…….Respondent.

For Petitioner(s)	:	Ms. Megha Sarkar, Adv.
For Respondent(s)	:	Mr. Sudipta Sekhar Debnath, Adv.
Date of Hearing	:	24.09.2026
Date of delivery of Judgment and Order	:	29.09.2026
Whether fit for Reporting	:	**YES**

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

This criminal revision petition is filed under Section 438 read with Section 442 of BNSS, 2023 challenging the order dated 08.04.2026 passed by Learned Additional Judge, Family Court, Agartala, West Tripura in case No. Criminal Misc.(Int.) 484 of 2025 arising out of Crl. Misc. 482 of 2025.

02. Heard Learned Counsel, Ms. Megha Sarkar appearing on behalf of the petitioner-wife and also heard Learned Counsel, Mr. Sudipta Sekhar Debnath appearing on behalf of the respondent-husband.

03. At the time of hearing, Learned Counsel for the petitioner-wife first of all drawn the attention of the Court that the present petitioner-wife filed one maintenance petition seeking maintenance against her husband on the ground of refusal of providing maintenance to the petitioner-wife which has been registered as Crl. Misc. 482 of 2025 and in the said petition a separate application was filed for granting interim maintenance. Before the Learned Trial Court both the parties appeared and after hearing both the sides by the impugned order Learned Judge, Family Court has rejected the application for granting interim maintenance filed by the petitioner-wife and being aggrieved this revision petition has been filed.

04. It was further submitted by Learned Counsel for the petitioner-wife referring Para Nos.5, 6, 7, 8 of the said order that the respondent-husband in the said proceeding did not dispute his marriage with the petitioner-wife but the Learned Trial Court hyper technically disallowed the claim filed by the petitioner-wife only on the ground that she has voluntarily left the company of her husband without any sufficient reason in view of the provision provided under Sub-Section (4) of Section 144 of BNSS, 2023.

05. It was further submitted by Learned Counsel for the petitioner-wife that the present petitioner-wife was subjected to inhuman cruelty by her husband and his family members and under compelling circumstances she was compelled to file the petition for maintenance.

06. It was further submitted that, before the Learned Trial Court both the parties have submitted their statements of assets and liabilities. The petitioner-wife specifically asserted that she had no independent source of income. However, the Learned Trial Court in absence of evidence on record came to the observation that, there was no merit in the petition filed by the petitioner-wife and thus rejected the same.

07. It was further submitted that in the petition it was asserted by the petitioner-wife that the monthly income of the respondent-husband is Rs.80,000/- per month as because he has got one shop of his own near Laxmi Narayan Bari, Agartala and apart from that he is doing some tuition but the Learned Trial Court did not consider the same and disallowed her claim.

In support of her contention Learned Counsel for the petitioner-wife also relied upon one citation of the Hon'ble Supreme Court of India in ***Sunita Kachwaha & Ors. Vs. Anil Kachwaha*** reported in ***2014 Supreme(SC) 769***, wherein in Para Nos.7, 8 and 9, Hon'ble the Apex Court observed as under:-

> **"7. The High Court has set aside the award of maintenance to the wife on the ground that the separate stay of the wife due to alleged dowry torture is not justified and that she has left the matrimonial house without any justifiable ground. As referred to by the Family Court, in her evidence, the appellant-wife has clearly stated that the respondent and his mother were physically and mentally harassing her on the ground that she has brought insufficient dowry. The Family Court referred to the evidence of the appellant at length and held that she has justifiable ground to stay away from the matrimonial house and the High Court was not**

> **right in interfering with such factual findings and upsetting the maintenance order.**
>
> **8. <u>The proceeding under Section 125 Cr.P.C. is summary in nature. In a proceeding under Section 125 Cr.P.C., it is not necessary for the court to ascertain as to who was in wrong and the minute details of the matrimonial dispute between the husband and wife need not be gone into. While so, the High Court was not right in going into the intricacies of dispute between the appellant-wife and the respondent and observing that the appellant-wife on her own left the matrimonial house and therefore she was not entitled to maintenance.</u> Such observation by the High Court overlooks the evidence of appellant-wife and the factual findings, as recorded by the Family Court.**
>
> **9. <u>Inability to maintain herself is the pre-condition for grant of maintenance to the wife. The wife must positively aver and prove that she is unable to maintain herself, in addition to the fact that her husband has sufficient means to maintain her and that he has neglected to maintain her.</u> In her evidence, the appellant-wife has stated that only due to help of her retired parents and brothers, she is able to maintain herself and her daughters. Where the wife states that she has great hardships in maintaining herself and the daughters, while her husband's economic condition is quite good, the wife would be entitled to maintenance."**

Learned Counsel for the petitioner-wife further relied upon another judgment of the High Court of Madhya Pradesh in ***Sandeep Kumrawat Vs. Antima Kumrawat*** reported in ***2024 SCC OnLine SC 2202***, wherein in Para Nos.9 and 10, the said High Court observed as under:-

> **"9. In so far as the demurrer regarding respondent not coming with clean hand is concerned, learned counsel for the petitioner, relying upon the case of Vinita Devangan vs. Rakesh Kumar Devangan reported as 2009 LawSuit(Chh) 64, submitted that the respondent has deliberately suppressed her income whereas she has a decree of M.Phil, virtually a decree itself cannot be regarded as a source of income. So far as coming with clean hands in the Court is concerned, on this aspect the law laid down in the case of Chaturbuj vs. Sitabai (Supra) is condigned to quote here:**

"<u>The object of the maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy by compelling those who can provide support to those who are unable to support themselves and who have a moral claim to support</u>. The phrase "unable to maintain herself" in the instant case would mean that <u>means available to the deserted wife while she was living with her husband and would not take within itself the efforts made by the wife after desertion to survive somehow Section 125 Cr.P.C. is a measure of social justice and is specially enacted to protect women and children and as noted by this Court</u> in Captain Ramesh Chander Kaushal v. Mrs. Veena Kaushal ((1978) 4 SCC 70 :AIR 1978 SC 1807) falls within constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution of India (in short the 'Constitution'). It is meant to achieve a social purpose. <u>The object is to prevent vagrancy and destitution. It provides a speedy remedy for the supply of food, clothing and shelter to the deserted wife. It gives effect to fundamental rights and natural duties of a man to maintain his wife, children and parents when they are unable to maintain themselves.</u> The aforesaid position was highlighted in Savitaben Somabhai Bhatiya v. State of Gujarat (2005 (2) Supreme 503)."

10. <u>On this aspect the view of Hon'ble Apex Court in the case of Sunita Kachwaha v. Anil Kachwaha reported as (2014) 16 SCC 715 : AIR 2015 SC 554 it has been held that the proceedings under Section 125 of Cr.P.C is summary in nature. In a proceeding under Section 125, Cr.P.C., it is not necessary for the Court to ascertain as to who was in wrong and the minute details of the matrimonial dispute between the husband and wife need not be gone into. While so, the High Court was not right in going into the intricacies of dispute between the appellant-wife and the respondent and observing that the appellant-wife on her own left the matrimonial house and therefore she was not entitled to maintenance.</u> Such observation by the High Court overlooks the evidence of appellant-wife and the factual findings, as recorded by the Family Court."

Finally Learned Counsel for the petitioner-wife relied upon another citation of the High Court of Kerala in ***Kantilal Punjaji Chavda Vs. Nanubhai Kantilal Chavda and another*** reported in ***1992 SCC OnLine Guj 341***, wherein in Para Nos.8, 9 and 10 observed as under:-

> **"8. This Court had an occasion to examine what should be the pleading of the spouse making an application under Section 125 of the Cr.P.C. in Criminal Revision Application No. 333 of 1989 decided on 30th July, 1992 (Arunabehn T. Ramanuj v. Vasudev P. Nimavat, reported in 1992 (2) GLH 148). It has been held therein that the law of pleadings as applicable to civil proceedings is not applicable to maintenance proceedings under Section 125 of the Cr.P.C. It has further been held therein that loose pleadings of a party claiming maintenance under Section 125 of the Cr.P.C. would not be fatal to the claim of maintenance.**
>
> **9. In the present case, the grievance is that respondent No. 1 in her application for maintenance under Section 125 of the Cr.P.C. has not pleaded to the effect that the earlier marriage of the present petitioner was not a valid marriage. That omission at the most would make pleadings loose. Looseness in her pleading would not come in her way in claiming maintenance. If it does not come in her way in claiming maintenance itself, it cannot come in her way in claiming interim maintenance.**
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> **10. Besides, what the Supreme Court has ruled in the case of Smt. Yamunabai (supra) as explained by the Kerala High Court in its ruling in the case of Raman Pillai (supra) is that, in order to take benefit under Section 125 of the Cr.P.C., the wife has to establish the necessary condition, namely, that she is the wife of the person concerned in the light of the law applicable to the parties. This she has to do at the stage of trial or hearing of the maintenance proceedings. Even if she has not properly pleaded her case in her application, she should not be prohibited from establishing at trial or hearing that she is a legally wedded wife of the opposite party. In that view of the matter, the absence of plea that the earlier marriage of the present petitioner was a nullity will not come in her way in claiming interim maintenance during the pendency of her maintenance application."**

Relying upon all the citations Learned Counsel, Ms. M. Sarkar drawn the attention of the Court that since the marriage has not been disputed by the respondent-husband and the respondent-husband is able bodied and has sufficient means to pay maintenance to the petitioner-wife, so there was no scope on the part of the Learned Trial Court to dismiss the application filed by the petitioner-wife. So in summing up, Learned Counsel urged for setting aside the order dated 08.04.2026 passed by Learned Addl. Judge, Family Court, Agartala, West Tripura.

08. Per contra Learned Counsel, Mr. S. S. Debnath appearing on behalf of the respondent-husband submitted that this petition itself was not maintainable and the Learned Trial Court after hearing both the sides rightly dismissed the petition.

It was further submitted that the petitioner-wife has not come before the Court with clean hands because she has suppressed the fact of filing domestic violence case against her husband i.e. the O.P. herein and the Learned J.M. First Class, Court No.8, Agartala, West Tripura in Misc. Case No.5719 of 2025 arising out of CR(DV) 83 of 2025 dated 02.09.2026 granted maintenance w.e.f. 02.09.2026 @ Rs.4000/- per month and as such the petitioner-wife is not entitled to get any further maintenance from her maintenance and urged for dismissal of this revision petition.

09. It was further submitted by Learned Counsel for the respondent-husband that the petitioner-wife could not satisfy the Learned Trial Court that she was subjected to refuse or neglect of maintenance by the respondent-husband and since the petitioner-wife herself left the company of the respondent-husband so there was no scope on the part of Learned Trial Court to grant maintenance in her favour and as such Learned Counsel urged for dismissal of the revision petition.

10. Heard both the sides at length and perused the order of the Learned Trial Court.

11. Admittedly, in this case, the respondent-husband has not disputed his marriage with the petitioner-wife. The marriage between both the parties took place on 24.01.2025 according to Hindu Marriage Rites and Customs. The petitioner-wife at the time of marriage was 22 years and was pursuing her Diploma in A.I from Techno College of Engineering, Agartala. It is the case of the petitioner that the respondent-husband was a businessman and owns a shop situated beside Sherowali Sweets L.N. bari road, Agartala, West Tripura and earns around Rs.80,000/- per month from the said business, in addition to his income from providing private tuition.

After the marriage both of them started living together as husband and wife and thereafter, some familical dispute took place and ultimately she was subjected to cruelty by the respondent-husband and his family members.

It was further submitted by the petitioner that the respondent-husband used to return back home at late night in intoxicated condition. The petitioner-wife was also subjected to physical torture by the respondent-husband, which compelled her to leave the matrimonial home. Consequently and finally the petitioner-wife filed the present petition.

12. Before the Learned Trial Court both the parties have submitted their statement of assets and liabilities. In the statement of assets and liabilities the petitioner-wife has asserted that the monthly income of respondent-husband was Rs.80,000/-. The respondent-husband in his objection although disputed the allegation made by the petitioner-wife in the petition but regarding his monthly income of Rs.80,000/- he could not give any proper explanation in this regard. Rather he admitted that he earned some money by doing private tuition. The original maintenance proceeding is still pending for disposal. In the main proceeding both the parties are to adduce their evidences.

13. I have also perused the order of the Learned Trial Court.

It is surprising how the Learned Trial Court simply on the basis of the pleadings of the parties came to the observation without taking any evidence that the petitioner-wife had left her matrimonial home voluntarily.

14. I have also perused the order referred by the petitioner-wife.

Hon'ble the Supreme Court in the case of ***Sunita Kachwaha & Ors. Vs. Anil Kachwaha (supra)*** stated that proceeding under Section 125 of Cr.P.C. is summary in nature and in a proceeding under Section 125 of Cr.P.C., it is not necessary for the court to ascertain as to who was in wrong and the minute details of the matrimonial dispute between the husband and wife need not be gone into.

It was further observed that, inability to maintain herself is a pre-condition for grant of maintenance to the wife. Now, the wife is to prove that she is unable to maintain herself in addition to the fact that her husband has sufficient means to maintain her and that he has neglected to maintain her.

15. Here in the case at hand, *prima facie* there is no evidence on record that the petitioner is earning any money. The respondent-husband also did not dispute his marriage with the petitioner-wife and also failed to dispute his monthly income as asserted by the petitioner-wife.

16. Section 144 of BNSS is applicable for the distressed lady who has been refused to provide maintenance by her husband. The respondent-husband has already admitted his marriage with the petitioner. Admittedly, the petitioner-wife was also filed one domestic violence case against her husband which is still pending for disposal. Section 20 of the Protection of Women from Domestic Violence Act provides that appropriate order for maintenance also can be passed in view of the said provision in addition to an order of maintenance

under Section 125 of Cr.P.C. So, the contention of Learned Counsel for the respondent-husband that there is no scope to pass an order is not factually correct and legally sustainable.

17. So, after hearing both the sides, it appears that the Learned Trail Court at the time of passing order has failed to appreciate the very purpose and object of the provision which has been prescribed by the legislature for protection of the deserted and distressed lady.

18. Thus, it appears that this is a fit case where the order dated 08.04.2026 passed by Learned Additional Judge, Family Court, Agartala, West Tripura be interfered with.

19. In the result, this revision petition filed by the petitioner-wife is hereby allowed.

The order dated 08.04.2026 passed by Learned Additional Judge, Family Court, Agartala, West Tripura in case No. Criminal Misc.(Int.) 484 of 2025 arising out of Crl. Misc. 482 of 2025 is hereby set aside.

The respondent-husband shall pay interim maintenance @ Rs.8000/- per month to the petitioner-wife with effect from the month of September, 2025 onwards till disposal of the original main petition and the amount of interim maintenance allowance of Rs.8000/- for the month of September, 2026 shall be payable within the 1st week of the next following month in which the monthly maintenance allowance shall become due to the petitioner-wife.

The arrear interim maintenance allowance shall also be paid by the respondent-husband to the petitioner-wife in 10 equal installments in addition to the normal interim maintenance allowance of Rs.8000/- and this amount of maintenance allowance of Rs.8000/- shall also include the maintenance allowance of Rs.4000/- as already ordered by the Learned J.M. First Class, Court No.8, Agartala, West Tripura in Misc. Case No.5719 of 2025 arising out of CR (DV) 83 of 2025 on 02.09.2026. Further, the respondent-husband shall not be required to pay separately the said amount of Rs.4000/- passed in domestic violence case as both the amounts have been clubbed together and the same order by this time has not yet been challenged by the respondent-husband.

With these observations, this present revision petition stands disposed of.

Send down the LCR along with the copy of this judgment and order to the Learned Trial Court.

Supply a copy of this order to the Learned Counsel for both the parties at free of cost and earliest.

Pending application(s), if any, also stands disposed of.

JUDGE

Amrita

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