

(2011) 12 GAU CK 0033
In the Gauhati High Court
Case No : Criminal Rev. P. No. 43 of 2004

Sri Parimal Biswas

APPELLANT

Vs

Smt. Pakhi Dey(Biswas) and Miss Satarupa Biswas, Being
represented by her mother Smt. Pakhi Dey (Biswas) as minor

RESPONDENT

Date of Decision : 07-12-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 125, 25, 397, 401
Family Courts Act, 1984 — Section 19

Citation : (2011) 12 GAU CK 0033

Hon'ble Judges : Swapan Chandra Das, J

Bench : Single Bench

Advocate : N. Guha, for the Appellant; Niharendu Majumder, for the Respondent

Final Decision : Dismissed

Judgement

S.C. Das, J.—This revisional application u/s 397 of Cr.P.C. is directed against the judgment and order dated 17.05.2004, passed by learned Judge, Family Court, Agartala in Misc. Case No.71 of 2003 u/s 25 of Cr.P.C. Learned Judge, Family Court, allowed maintenance to the respondents @Rs.1,000/- each per month w.e.f. 15.05.2004, and being aggrieved and dissatisfied with the judgment, the petitioner preferred the present revisional application challenging the order on different grounds.

2. Heard learned counsel, Mrs. Nandita Guha for the petitioner. None appeared for the respondents.

3. The revisional application has been presented u/s 397 r/w 401 of Cr.P.C. While a judgment passed by Family Court was challenged, the petitioner was supposed to file the petition u/s 19 of the Family Courts Act, 1984 and not u/s 397 r/w Section 401 of Cr.P.C. However, for fair ends of justice the petition is converted to one u/s 19 of the Family Courts Act, 1984.

4. According to law, this Court is to see whether the judgment and order passed

by the learned Judge, Family Court, suffers from irregularity, impropriety or incorrectness and whether there was any irregularity in the proceeding. The revisional Court is not required to re-appreciate or reassess evidence on record unless it is apparently shown that there was any perverse finding by the court below.

5. I have meticulously gone through the impugned judgment and the petition, written statement and the evidence so far recorded by the learned Court. The respondents, being the wife and minor daughter of the petitioner, presented the petition u/s 125 of Cr.P.C. praying for granting them maintenance and accordingly after hearing both sides and recording evidence, the court below granted maintenance @Rs.1,000/- per month to each of the respondent-petitioners w.e.f. 15.05.2004. The contention of the respondents, being petitioners before the trial Court, was that the respondent No.1 was subjected to torture in the matrimonial home and she was not provided her required food, cloth, etc. She was driven out from the matrimonial home. The husband, Opposite Party contended that the respondent, wife left the matrimonial home without any cogent reason as she was unwilling to reside with other members of the matrimonial home. The husband tried his level best to take her back but she turned a deaf ear. It is alleged by both sides that there were several village meetings, Panchayat meetings and the matter was also taken before the Women's Commission but the parties ultimately could not settle their dispute and difference and they were living separately.

6. It is admitted fact that respondent No.1 is the legally married wife of the petitioner and respondent No.2 is the minor daughter of the petitioner and respondent No.1. There is nothing before us in the evidence on record that respondent No.1(wife) has got any independent income. Wife-respondent, though, stated that monthly income of the petitioner was Rs.7,000/- but there was no documentary evidence except oral statement. The petitioner-husband stated that his monthly income was Rs.2,000/- as daily labour. In the admitted facts and circumstances where the dispute and difference were prevailing between the parties and the wife respondent, living separately with the minor daughter, it is the obligation and boundant legal duty of the husband to maintain the wife and daughter. The husband no doubt has a reasonable income to maintain his wife and daughter and though they are not residing with him, he cannot be absolved from the responsibility of maintaining them. The Family Judge granted a maintenance of total Rs.2,000/- per month only which seems to be very little amount in the hard days of price rise as on today.

7. Considering the facts and circumstances and the evidence and materials on record, I find no justification to interfere with the order passed by the learned Judge, Family Court and the revisional application accordingly stands dismissed. Send back the L.C. records along with a copy of this order.