GAHC010180002024

2026:GAU-AS:15569

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

Case No. : Crl.Rev.P./342/2024

AMIT KUMAR RABHA
S/O SHRI RAJMOHAN RABHA
R/O VILL- NO. 2,
SARDERPARA, P.O. AND P.S. RANGJULI
DIST. GOALPARA, ASSAM
PIN-783130

VERSUS

JOYSHRI RAVA
D/O SRI PRAFULLA KUMAR RAVA
R/O NIZ JALAH
P.O.KALAIGAON, P.S. KALAIGAON
DIST. UDALGURI (BTR), ASSAM
PIN-784525

-BEFORE-

HON'BLE MR. JUSTICE PRANJAL DAS

Advocated for petitioner:
Mr. M.K. Hussain

Advocate for Respondents:
Mr. R.C. Saikia

Date on which judgment is reserved : 24.08.2026

Date of pronouncement of judgment : 09.10.2026

Whether the pronouncement is of

the operative part of the judgment? : No

Whether the full judgment has been Pronounced? : Yes

JUDGMENT & ORDER (CAV)

1. Heard Mr. M.K. Hussain, learned counsel for the petitioner. Also heard Mr. S.C. Saikia, learned counsel for the respondent.

2. Invoking the revisional jurisdiction of this Court under Section 438 of the BNSS, 2023, the petitioner, **Amit Kumar Rabha**, has assailed the judgment and order dated 01.07.2024 passed by the learned Sessions Judge, Udalguri in Criminal Appeal No.08/2024, whereby, the appellate court modified the final order dated 18.03.2024 passed by the learned JMFC, Udalguri in D.V. Case No. 33/2023 and enhanced the monthly maintenance for the aggrieved person/respondent from Rs. 4,000/- P.M. to Rs. 8,000/- P.M.

3. The facts in brief may be noticed as follows:-

4. The petitioner and the respondent were married as per Hindu rites and customs on 21.04.2022 at Goalpara in the district of Goalpara, where after she was taken to the house of his parents at Goalpara. Subsequently, in connection with the job of the petitioner, the couple went to Delhi and stayed for some time, and thereafter, they came back and started residing in a rented house at Guwahati. Both the petitioner and the respondent are qualified persons, with the former having higher degrees in agricultural science and the wife is an Engineer-cum-MBA.

5. The respondent wife was aggrieved by alleged commission of cruelty and

domestic violence upon her. She contended that she was being exploited and treated like a maid servant; that, the petitioner and his parents also humiliated her with regard to quality of furniture given to her by her parental home at the time of marriage; that, they also prevented and deprived her from seeking a job being a qualified person. She also contended that she was rebuked and insulted badly, causing mental agony and distress.

7. With such grievances, the respondent as an aggrieved person filed an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter, 'the DV Act'). She sought various reliefs under the DV Act. She was granted interim maintenance of Rs. 3,000/- under Section 23 of the DV Act.

8. The case proceeded to the stage of evidence, during which the respondent as aggrieved person adduced evidence of herself, her father and another person as PW-1, PW-2, and PW-3. All the three witnesses were cross-examined on behalf of the petitioner-husband. The husband did not adduce any evidence. After completion of the proceeding, the learned Magistrate allowed the application of the aggrieved person and prohibited the husband from committing any acts of domestic violence upon her. The learned Magistrate also granted a monthly maintenance of Rs. 4,000/- to the respondent wife by way of monetary relief under the DV Act.

9. While the husband did not prefer any appeal against the said order dated 18.03.2024 passed by the learned JMFC in D.V. Case No. 33/2023, the respondent wife was aggrieved by the quantum of maintenance and the non-granting of other monetary reliefs and she preferred an appeal to the Sessions Court under Section 29 of the DV Act. Upon hearing and adjudicating the appeal, the learned Appellate Court passed an *inter-partes* judgment, enhancing

the maintenance amount to Rs. 8,000/- per month. This time, the husband was aggrieved by such enhancement and he filed the instant revision petition.

10. The scanned copy of the case record was called for and received from the learned Court below.

11. I have perused the revision petition, the judgment of the learned JMFC as well as the learned appellate court, the evidence on record before the learned JMFC, the affidavit of assets and liabilities filed by the wife and other relevant materials.

12. I have considered the submissions of the learned counsels on both the sides and perused the decisions cited at the Bar.

13. The primary contention of *Mr. Hussain*, the learned counsel for the petitioner is that the impugned order was passed without perusing the income affidavit of the parties as required by the judgment of the Hon'ble Supreme Court in the case of *Rajnesh v. Neha and Another*, *(2021) 2 SCC 324*. It is submitted that in the absence of such income affidavit, the order of the Magistrate and the subsequent order of enhancement by the Appellate Court were vitiated and therefore, this Court should interfere with the said orders. It is also submitted by the learned counsel that there was no justification for enhancement of the maintenance amount to Rs. 8,000/- per month.

14. In support of his contentions, the learned counsel Mr. Hussain cites the following decisions:

(i) *Rajnesh Vs. Neha and Another (2021) 2 SCC 324*,

(ii) *Ratan Dutta Vs. Sunita Dutta in Crl. Pet. 120/2024,*

(iii) *Ravi Prakash Saxena @ Ravi Prakash Vs. Priyanka Rani in Criminal*

Revision No.676/2024,

(iv) *Chinta Vamshi Vs. The State of Telangana and Another in Criminal Petition No.1489/2023*,

(v) *Shri Goreth N. Marak Vs. Smti Wansay D Shira in Crl. Rev.P. No. 1 of 2024*.

15. On the other hand, *Mr. Saikia*, the learned counsel for the respondent, submits that there is no infirmity at all in either the judgment of the learned JMFC or the learned Sessions Judge and that considering the income of the husband which was not denied by him, the Appellate Court was fully justified in enhancing the amount to Rs. 8,000/- as monetary relief. It is submitted that the factum of commission of domestic violence upon the respondent wife was cogently proved during the proceeding before the learned JMFC. The learned counsel for the respondent also questions as to whether revision would be maintainable against the order passed by the learned Appellate Court. The learned counsel *Mr. Saikia* cites the following decisions:-

(i) *Girish Kumar Suneja Vs. Central Bureau of Investigation in (2017) 14 SCC 809,*

(ii) *Bhuwan Mohan Singh Vs. Meena and Ors. (2015) 6 SCC 353.*

16. As already stated at the outset, the 3(three) witnesses adduced on behalf of the respondent wife were cross-examined from the side of the husband and the husband did not adduce any evidence of his own. In the examination-in-chief, the respondent wife as DW-1, her father as DW-2, and DW-3 cogently testified about the commission of domestic violence upon her as contended by her initially in the petition and reiterated by her in her evidence on affidavit. The

marriage between the parties is not in dispute. The testimony regarding commission of domestic violence upon the respondent wife remained unshaken in the cross-examination and therefore, the same cannot be interfered with within the limited scope of revisional jurisdiction at this stage.

17. It is well settled that while exercising revisional jurisdiction in this third tier, interference with the order would be justified only when it is perverse or suffers from jurisdictional error or any gross material irregularity or leads to some serious miscarriage of justice.

18. As far as the determination of domestic violence is concerned, upon perusing the discussion of the learned JMFC and the learned Appellate Court and upon perusing the evidence adduced during the proceeding before the learned JMFC, I do not find any scope for interference with the same within the limited scope of revisional jurisdiction as indicated above.

19. As far as the quantum of maintenance is concerned, upon perusing the case record, I find that the wife had filed her detailed affidavit of assets and liabilities and she stated about her husband, the petitioner, working as a Junior Evaluation Advisor in a Delhi based company with a monthly salary of Rs. 87,056/- per month. The aforesaid contention of the wife regarding the said projected income of the husband could not be rebutted by the husband by adducing any alternative evidence.

20. In the case of Bhuwan Mohan Singh (supra), the Hon'ble Apex Court held that it is the duty of the husband to provide maintenance to his wife for her sustenance.

21. The respondent side has also referred to the case of Girish Kumar Suneja

(supra), to contest the maintainability of the revision. However, in view of the fact that the revision has been filed against a criminal appeal filed before the Sessions Judge under Section 29 of the DV Act, and the appeal has been disposed of resulting in the impugned order, there would be no issue with regard to maintainability of the instant revision petition.

22. As regards the contention of the petitioner's side that the order is vitiated in the absence of income affidavit of the husband, I am of the considered view that setting aside the impugned order on that ground would amount to allowing the husband/petitioner to take advantage of his own wrong.

23. Upon perusing the case record, I find that it is not a case here of the Court not giving an opportunity to the parties to file their income affidavits in terms of *Rajnesh v. Neha (supra)*. Thus, while the wife filed her income affidavit, what prevented the husband also from doing so and now at this stage, he cannot turn around to say that as his income affidavit was not before the learned JMFC, the order and the subsequent appellate order stands vitiated.

24. Upon perusing the case record, I find that several dates elapsed after the filing of income affidavit by the wife but the husband did not choose to file his income affidavit. The judgments cited by the petitioner's side in *Ratan Dutta (supra), Ravi Prakash Saxena (supra), Shri Goreth N. Marak (supra), Chinta Vamshi (supra)* would in my opinion be distinguishable on facts. In the instant case, we are not confronted with any situation where the learned Court below deprived the party from filing his income affidavit.

25. Considering the cost of living on one hand and the projected income of the husband on the other hand — which could not be rebutted by any counter evidence — this Court is of the considered opinion that there is no scope for

interference with the granting of monthly maintenance amount of Rs. 8,000/- to the respondent-wife.

26. Accordingly, the impugned judgment and order dated 01.07.2024 passed by the learned Sessions Judge, Udalguri in Criminal Appeal No. 08/2024 (*arising out of DV Case No. 33 of 2023 adjudicated by learned JMFC, Udalguri*), is hereby **upheld and confirmed**.

27. Consequently, the instant revision, having been found devoid of merits, stands **dismissed**.

JUDGE

Comparing Assistant