GAHC010220542022

2026:GAU-AS:15722

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

Case No. : Crl.Rev.P./535/2022

ALTAP HUSSAIN
S/O LATE ABU BAKKAR SIDDIQUE, VILL- DEWRIKUCHI, P.O. SONKUCHI,
P.S. AND DIST. BARPETA, ASSAM
PIN- 781314

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:AMIRAN NESSA
D/O LATE ALAUDDIN KHALIFA

VILL- DEWRIKUCHI
P.O. SONKUCHI
P.S. AND DIST. BARPETA
ASSAM
PIN-78131

Advocate for the Petitioner : MR J ISLAM, MR. A HUSSAIN

Advocate for the Respondent : PP, ASSAM, MR H A AHMED(R2),MR. R ALI(R2)

BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 15-10-2026

Heard Mr. J Islam, the learned counsel for the petitioner. Also heard Mr. H A Ahmed, the learned counsel appearing for respondent no. 2 and Mr. K K Das, the learned Additional Public Prosecutor appearing for the State respondent no. 1.

2. This is an application u/s 397/401 read with Section 482 of Cr.PC for setting aside the impugned final order dated 01.08.2022 passed by learned Principal Judge, Family Court, Barpeta in F.C. (Crl.) Misc. Case No. 58/2022 u/s 127 Cr.PC arising out of F.C. (Criminal) Case No. 199/2017 u/s 125 CrPC wherein the maintenance to the respondent no. 2 has been enhanced by Rs. 2,000/- amounting total amount of Rs. 3,500/- per month towards maintenance allowance.

3. It is submitted my Mr. Islam that the petitioner was paying the maintenance of Rs. 1,500/- which was initially granted to the present respondent no. 2 since 11.12.2018 regularly. But, vide the impugned judgment & order the maintenance was enhanced by 133 percent and now he was directed to pay Rs. 3,500/- per month towards maintenance allowance at the enhanced rate. He further submitted that the petitioner is a BPL cardholder and he is a person of low poverty line and somehow managing his family with a meagre income. Mr. Islam also submitted that apart he has the liability of his family and his son is also studying in a senior secondary school for which he has to pay a good amount of money towards school fee.

4. The respondent on the other hand is getting a monthly maintenance of Rs. 1,500/- and she also work as a Cook in a school where she is getting the salary of Rs. 1,500/- per month and also getting the benefit of Arunodoi Scheme. To substantiate his plea the petitioner annexed two certificates in this regard and

also produced the BPL card in this regard. He accordingly submitted that in the present situation his income as a daily labourer, he is not in a position to provide maintenance @ Rs. 3,500/- per month as per the impugned judgment & order. However, he is regularly paying the monthly maintenance of Rs. 1,500/- and pray for a reduction of the enhanced amount of maintenance.

5. Mr. Ahmed, the learned counsel appearing for the respondent no. 2/wife submitted that since the date of judgment in the earlier case i.e. 11.12.2018, the petitioner is paying Rs. 1,500/-, which is not at all sufficient for the respondent to maintain herself. He further submitted that the petitioner also performed his second marriage and he is maintaining his wife and his son is studying in a private school and all expenses are borne by the present petitioner.

6. Mr. Ahmed further submitted that he is a Contractor by profession and in the WS filed by the present petitioner he also admitted that he has sufficient land property including a fishery wherefrom also he is earning. Thus, it is not a case that petitioner is maintaining his family working as a daily labourer. Rather he is a person who has sufficient landed property including a fishery and has the capacity to maintain his second wife and his children.

7. Mr. Ahmed further submitted that though she is working as a Cook in a school but there was no payment of regular salary and the present petitioner also being a BPL cardholder is getting the benefit of various schemes as a BPL cardholder. Mr. Ahmed also relied on the decision of the Apex Court reported in **2026 LiveLaw (SC) 387 [Deepa Joshi v. Gaurav Joshi]** and basically he emphasized in paragraphs 11 to 16 of the said judgment wherein the duties and responsibilities of husband is discussed and in para 16 of the said judgment it is observed that – the obligation of the husband to maintain his spouse is a

primary and continuing duty, which must be discharged in a manner that enables the wife to live with dignity and in a standard commensurate that she enjoyed during the subsistence of their marriage. Accordingly, it is submitted by Mr. Ahmed that there is no need of any interference in the impugned judgment & order passed by the learned Principal Judge, Family Court, Barpeta, in F.C. (Crl.) Misc. Case No. 58/2022 u/s 127 Cr.PC arising out of F.C. (Criminal) Case No. 199/2017 u/s 125 CrPC.

8. Considering the submissions made by learned counsels for both sides, I have also perused the case record and annexures filed along with the petition.

9. It is an admitted fact that the petitioner is paying Rs. 1,500/- to the respondent no. 2 as per the interim order passed by this Court. It is the plea of the petitioner that he is a BPL cardholder and he produced one copy of the BPL card which is in the name of his second wife, wherein his name is also included as a member. But, very surprisingly he is also paying a good amount of fees for his son who is studying in a private senior secondary school and that apart from his own admission in the written statement which reveals that he has a sufficient amount of landed property, including a fishery and has good amount of income yearly from his landed property. So considering all these aspects of the case, vis-à-vis the price hike of the essential commodities, this Court is of the opinion that enhancement of Rs. 2,000/- is not an unreasonable amount and can be considered as a justified amount towards enhancement. That apart further the respondent though is working as a Cook in a school but, it is not a permanent job and it cannot be considered as permanent income or permanent job of the respondent no. 2.

10. So, considering all these aspects of the case, this Court is of the opinion that the order of enhancement passed by the learned Principal Judge, Family

Court is justified order and the amount which has been enhanced is also found to be a reasonable amount towards enhancement and hence there is no need of any interference in the impugned judgment and order passed by the learned Principal Judge, Family Court, Barpeta in F.C. (Crl.) Misc. Case No. 58/2022 u/s 127 Cr.PC arising out of F.C. (Criminal) Case No. 199/2017 u/s 125 CrPC.

11. Accordingly, the present Criminal Revision Petition is hereby dismissed with a direction to the petitioner to pay the maintenance amount with an enhanced rate. However, he can pray for installment before the learned Trial Court below, if the arrear amount cannot be paid at a time.

JUDGE

Comparing Assistant