TRHC010015462025

2026:THC:1266

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_

Crl. Rev. P. No. 58 of 2025

Sri. Gopi Nath Saha,
S/o. Sri Kanai Lal Saha,
of Town Pratapgarh, near Ram Thakur Sangha,
P.O. Agartala, P.S. East Agartala,
District- West Tripura, PIN-799001.

.....Revision Petitioner

VERSUS

Smt. Bina Roy,
D/O. Sri B. L. Roy,
C/O. late Sahicharan Saha,
Of Gagail Road, master Para,
P.O. Agartala, P.S. West Agartala,
District-West Tripura, PIN-799001.

.....Respondents

For Petitioner(s) :Mr. Subrata Sarkar, Sr. Adv.
Mr. Kabrabam Dhirendra Singha, Adv.
Ms. Megha Sarkar, Adv.

For Respondent(s) :Mr. Purusuttam Roy Barman, Sr. Adv.
Mr. Samarjit Bhattacharjee, Adv.
Mr. Kawsik Nath, Adv.

Date of hearing :03.08.2026

Date of Delivery of judgment :***10.09.2026***

Whether fit for reporting : ***YES***

HON'BLE MR. JUSTICE BISWAJIT PALIT
JUDGMENT &ORDER

This petition is filed under Section 438 read with Section 442 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 is filed challenging the order dated 24.07.2025 passed by the Learned Additional Judge, Family Court, Agartala, West Tripura, in connection

with Case No. Crl. Misc. (Int). 231/2024 (arising out of Crl. Misc. No. 230/2024). By the impugned order, the Learned Addl. Judge has awarded interim maintenance of Rs. 15,000/- (Rupees Fifteen Thousand) per month to the petitioners is the respondent herein.

2. Heard Learned Sr. Counsel Mr. Subrata Sarkar, assisted by Learned Counsel Mr. Kabrabam Dhirendra Singha and Learned Counsel Ms. Megha Sarkar, appearing on behalf of the petitioner husband-OP also heard Learned Sr. Counsel Mr. Purusuttam Roy Barman, assisted by Learned Counsel Mr. Samarjit Bhattacharjee and Learned Counsel Mr. Kawsik Nath, appearing on behalf of the respondent-wife petitioner.

3. At the time of hearing, Learned Sr. Counsel Mr. S. Sarkar, appearing on behalf of the petitioner-husband, submitted that the respondent, as petitioner, had filed a petition for maintenance against the respondent-OP is the petitioner herein under Section 125 of CR.P.C. In the said proceeding, a separate petition was filed for granting interim maintenance till disposal of the main petition, which was registered as Crl. Misc. (Int). No.231 of 2024. After hearing both the sides, Learned Addl. Judge, Family Court, Agartala, West Tripura, passed the impugned order. Being aggrieved and dissatisfied with the said order, the alleged husband, as petitioner, has preferred the present petition challenging the legality and maintainability of the said order.

4. After that, Learned Counsel for the petitioner-husband, first of all, drawn the attention of the Court to the fact that, in a proceeding

under Section 125 of the Cr.P.C., the wife is required to establish that she is the legally married wife of the petitioner. However, in the present case, the alleged petitioner, claiming to be the wife of the petitioner-husband, could not produce any document to establish that her marriage had taken place with the present petitioner-husband. Learned Senior Counsel further submitted that the petitioner-husband had a legally wedded wife, who had been suffering from illness and ultimately expired on 09.01.2020.

5. Learned Counsel further submitted that, surprisingly, according to the respondent-wife, the alleged marriage with the petitioner-husband took place in the year 2012. However, during the lifetime of the wife of the petitioner-husband, the respondent-wife never raised any claim that she was the legally wedded wife of the petitioner-husband, nor did she claim any maintenance or other benefit from him. It was only after about four years from the death of the wife that the respondent-wife, claiming herself to be the wife of the petitioner-husband, filed the application for maintenance, which, according to Learned Counsel, has got no legal basis.

6. Learned Counsel further submitted that, even if it is proved that the petitioner-husband had married the respondent-wife during the subsistence of his marriage with another woman, who subsequently expired in the year 2020. So, as per law, the respondent-wife would not be entitled to claim maintenance from the petitioner-husband.



7. It was further submitted that, till date, the respondent-wife could neither produce nor proved any document or evidence to establish that the petitioner-husband had divorced his first wife, so as to substantiate her claim. Therefore, in such a situation, during the subsistence of the marriage between the petitioner-husband and his wife, there was no scope for the respondent-wife to claim maintenance from the petitioner-husband.

8. In course of hearing, Learned Counsel also referred to the interim petition filed by the respondent, as well as the written objection submitted by the present petitioner before the Learned Trial Court. He submitted that, admittedly, the respondent had, for a certain period, been employed in the shop of the petitioner-husband as a staff member. At one point of time, the respondent became close to the wife of the petitioner-husband, as because his wife suffering from severe illness and the respondent was requested to assist the ailing wife of the petitioner-husband. Learned Counsel further submitted that, during the said period, the petitioner-husband had extended certain financial assistance to the son of the respondent, out of which he was admitted to an institution outside the State and pursued his studies.

9. It was also submitted that, although certain photographs were produced showing that both the parties had visited and moved around at different places together, surprisingly, with regard to the alleged marriage said to have taken place in the year 2012, the respondent could neither produce any photograph nor any documentary



evidence before the Learned Trial Court to establish that the petitioner-husband had married her.

10. In support of his contention, Learned Counsel relied upon a judgment of the Hon'ble Supreme Court of India, reported in ***(1988) 1 SCC 530,*** in ***Yamunabai Anantrao Adhav v. Anantrao Shivram Adhav & Anr.,*** wherein, in para No. 8, the Hon'ble Apex Court has observed as under:-

> ***"8. We, therefore, hold that the marriage of a woman in accordance with the Hindu rites with a man having a living spouse is a complete nullity in the eye of law and she is not entitled to the benefit of Section 125 of the Code. The appeal is accordingly dismissed. There will be no order as to costs. During the pendency of the appeal in this Court some money was paid to the appellant in pursuance of an interim order. The respondent shall not be permitted to claim for its refund."***

11. Learned Sr. Counsel thereafter referred another judgment of the Hon'ble Supreme Court of India, reported in ***(2005) 3 SCC 636,*** in ***Savitaben Somabhai Bhatiya v. State of Gujarat & Ors.,*** wherein, in para Nos. 8, 5, 15 and 21, the Hon'ble the Apex Court has observed as under:-

> ***"5. Criminal Revision Application No. 65 of 1995 was filed by Respondent 2 against the order dated 31-7-1999. By order dated 12-7-2001, learned Additional District Judge, Sabarkatha dismissed the application. Respondent 2 filed Special Criminal Application No. 568 of 2001 before the Gujarat High Court which by the impugned order held that the appellant was not the legally wedded wife of Respondent 2. Reliance was placed on documents filed by Respondent 2 to conclude that before the alleged date of marriage between the appellant and Respondent 2, the latter was already married to Veenaben with reference to the documents produced. However, maintenance granted to the child***

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(Respondent 3) was maintained and amount as awarded to him i.e. Rs 350 was enhanced to Rs 500. A direction was also given to pay the enhanced amount from the date of order of the learned JMFC i.e. 31-7-1999.

8. There may be substance in the plea of learned counsel for the appellant that law operates harshly against the woman who unwittingly gets into relationship with a married man and Section 125 of the Code does not give protection to such woman. This may be an inadequacy in law, which only the legislature can undo. But as the position in law stands presently there is no escape from the conclusion that the expression "wife" as per Section 125 of the Code refers to only legally married wife.

15. In Yamunabai case [(1988) 1 SCC 530 : 1988 SCC (Cri) 182 : AIR 1988 SC 644] it was held that the expression "wife" used in Section 125 of the Code should be interpreted to mean only a legally wedded wife. The word "wife" is not defined in the Code except indicating in the Explanation to Section 125 its inclusive character so as to cover a divorcee. A woman cannot be a divorcee unless there was a marriage in the eye of the law preceding that status. The expression must therefore be given the meaning in which it is understood in law applicable to the parties. The marriage of a woman in accordance with Hindu rites with a man having a living spouse is a complete nullity in the eye of the law and she is therefore not entitled to the benefit of Section 125 of the Code or the Hindu Marriage Act, 1955 (in short "the Marriage Act"). Marriage with a person having a living spouse is null and void and not voidable. However, the attempt to exclude altogether the personal law applicable to the parties from consideration is improper. Section 125 of the Code has been enacted in the interest of a wife and one who intends to take benefit under sub-section (1)(a) has to establish the necessary condition, namely, that she is the wife of the person concerned. The issue can be decided only by a reference to the law applicable to the parties. It is only where an applicant establishes such status or relationship with reference to the personal law that an application for maintenance can be maintained. Once the right under the provision in Section 125 of the Code is established by proof of necessary conditions mentioned therein, it cannot be defeated by further reference to the personal law. The issue whether the section is attracted or not cannot be



answered except by reference to the appropriate law governing the parties.

21. In that view of the matter, the application so far as claim of maintenance of the wife is concerned stands dismissed.”

12. Referring to both the aforesaid judgments, Learned Senior Counsel submitted that marriage of a woman, solemnized in accordance with Hindu rites with a man having a living spouse, is a complete nullity in the eye of law, and, as such, she is not entitled to claim the benefit of Section 125 of the Cr.P.C.

13. Further, he submitted that the expression “wife” used in Section 125 of the Cr.P.C. should be interpreted to mean only a legally wedded wife. In the present case, the respondent has failed to prove that she is the legally wedded wife of the petitioner. Moreover, even if it is proved that the petitioner had married the respondent, she would still not be entitled to claim maintenance from the petitioner, in view of the fact that the petitioner already has got his legally wedded wife residing at his matrimonial home.

14. Referring to the aforesaid citations, Learned Senior Counsel further submitted that the order passed by the Learned Trial Court suffers from infirmity and, therefore, warrants interference by this Court and is liable to be quashed and set aside.

15. Thereafter, with regard to the maintainability of the petition, Learned Senior Counsel drawn the attention of this Court to the judgment delivered in ***Rajendra Kumar v. Rukhmai Bisen,*** reported

in ***2023 SCC OnLine MP 2822***, wherein, in paragraph No. 17, the Madhya Pradesh High Court observed as under:

> ***"17. In the case of Aakansha Shrivastava, (Supra) the Division Bench of this Court further held that any order which affects right of a person drastically and substantially, cannot be treated as interlocutory order and criminal revision can be preferred under Section 19(4) of the Family Courts Act against the order passed on the application for interim maintenance by the Family Court. Further more in the Case of Rajesh Shukla v. Meena Shukla, (2005) 2 MP LJ 483, it has been held by Full Bench of this Court while passing of maintenance under Section 125 of Cr. P.C. in exercise of powers, against such order under Section 19(4) of Cr. P.C. criminal revision should be registered. In another case Nasreen Begum v. State of Jharkhand, 2006 Cri LJ 326 has held the Section 19(4) of the said Act make special provision of revision with regard to orders passed under Section 125 of Cr. P.C. and thus revisions would lie."***

16. Further, he also referred another judgment of the Hon'ble Supreme Court of India in ***Akanksha Arora vs. Tanay Maben*** reported in ***2024 SCC OnLine SC 3688,*** wherein, in para Nos. 5, 9 & 11, Hon'ble the Apex Court has observed as under:-

> ***"5. It appears that the Principal Judge, Family Court vide order dated 08.03.2022 in exercise of powers under Section 125 of the Criminal Procedure Code, 1973 (for short 'the CrPC') had fixed interim maintenance in favour of the appellant.***
>
> ***9. In Prabhu Chawla v. State of Rajasthan (1977) 4 SCC 551, this Court examined the relevant scope of Section 482 CrPC and Section 397 CrPC and held that nothing in CrPC, not even Section 397, can affect the amplitude of the inherent powers preserved in so many terms by the language of Section 482 CrPC. The inherent powers should not invade areas set apart for specific powers conferred under CrPC but there is no total ban on the exercise of inherent powers where abuse of process of Court or other extraordinary situation warrants exercise of inherent jurisdiction. The limitation is self-restraint, nothing more. Availability of alternative remedy of criminal revision***

> ***under Section 397 CrPC, by itself, cannot be a good ground to dismiss an application under Section 482 CrPC.***
>
> ***11. In view of the above, we dispose of the appeal by setting aside the impugned order of the High Court dated 21.09.2023 and remand the matter to the High Court with further direction to convert the petition under Section 482 CrPC as a criminal revision under Section 397 CrPC and decide it in accordance with law after affording opportunity of hearing to the parties."***

17. Referring to the aforesaid citations, Learned Senior Counsel submitted that, in view of the observations made therein, there is no bar to file a revision petition before this Court challenging the order granting interim maintenance, and that the bar contemplated under Section 19(4) of the Family Courts Act, 1984, would not operate in the present matter.

Finally, Learned Senior Counsel submitted that, since the order passed by the Learned Trial Court suffers from infirmities and is otherwise unsustainable in law, the same warrants interference by this Court and is liable to be set aside.

18. On the other hand, Learned Senior Counsel appearing for the respondent, who was the petitioner in the original maintenance proceeding, submitted that it is an admitted position that the respondent was employed at the shop of the present petitioner. After the petitioner's divorce from his first wife, the respondent, being helpless, got employment at his shop. During the said period, the present petitioner developed an acquaintance with her and proposed to

marry her. He represented her that his wife was suffering and that he would divorce her. Subsequently, he informed the respondent that he had divorced his wife.

19. Relying upon such representation and believing the same to be true, the respondent married the present petitioner in the year 2012, i.e. on 20.11.2012, at the Kalighat Temple, Kolkata, in the presence of a priest. It was submitted that the petitioner performed the marriage rituals by applying vermilion and, thereafter, accepted the respondent as his wife, took responsibility for her and they started living together as husband and wife. The petitioner also introduced and represented the respondent before members of the society as his wife.

20. It was further submitted that the present petitioner not only recognized the respondent as his wife but also spent a considerable amount of money towards the education of her son. Apart from the aforesaid facts, the petitioner and the respondent travelled to various places together as husband and wife and took several photographs during such visits, which, according to the respondent, further demonstrates their relationship and the manner in which the petitioner represented her as his wife.

Learned Senior Counsel further submitted that the present petitioner has suppressed the material facts that, after obtaining a divorce from his wife, he married the respondent and thereafter lived with her as husband and wife.



21. Accordingly, Learned Senior Counsel submitted that there is no infirmity in the order passed by the Learned Judge, Family Court, and urged that the present petition be dismissed. In support of his contention, Learned Sr. Counsel relied upon a judgment of the Hon'ble Supreme Court reported in ***(2014) 1 SCC 188,*** in ***Badshah vs. Urmila Badshah Godse & Anr.,*** wherein in para .Nos. 11, 13, 13-1, 13-2, 13-3, 15, 16, 18 & 20 Hon'ble the Apex Court has observed as under:-

> ***"11. The second case which we would like to refer to is Chanmuniya v. Virendra Kumar Singh Kushwaha [Chanmuniya v. Virendra Kumar Singh Kushwaha, (2011) 1 SCC 141 : (2011) 1 SCC (Civ) 53 : (2011) 2 SCC (Cri) 666] . The Court has held that the term "wife" occurring in Section 125 CrPC is to be given very wide interpretation. This is so stated in the following manner:***
>
> ***"42. … a broad and expansive interpretation should be given to the term 'wife' to include even those cases where a man and woman have been living together as husband and wife for a reasonably long period of time, and strict proof of marriage should not be a precondition for maintenance under Section 125 CrPC, so as to fulfil the true spirit and essence of the beneficial provision of maintenance under Section 125."***
>
> ***13. On this basis, it was pleaded before us that this matter be also tagged along with the aforesaid case. However, in the facts of the present case, we do not deem it proper to do so as we find that the view taken by the courts below is perfectly justified. We are dealing with a situation where the marriage between the parties has been proved. However, the petitioner was already married. But he duped the respondent by suppressing the factum of alleged first marriage. On these facts, in our opinion, he cannot be permitted to deny the benefit of maintenance to the respondent, taking advantage of his own wrong. Our reasons for this course of action are stated hereinafter:***

13.1. Firstly, in Chanmuniya case [Chanmuniya v. Virendra Kumar Singh Kushwaha, (2011) 1 SCC 141 : (2011) 1 SCC (Civ) 53 : (2011) 2 SCC (Cri) 666] , the parties had been living together for a long time and on that basis question arose as to whether there would be a presumption of marriage between the two because of the said reason, thus, giving rise to claim of maintenance under Section 125 CrPC by interpreting the term "wife" widely. The Court has impressed that if man and woman have been living together for a long time even without a valid marriage, as in that case, term of valid marriage entitling such a woman to maintenance should be drawn and a woman in such a case should be entitled to maintain application under Section 125 CrPC. On the other hand, in the present case, Respondent 1 has been able to prove, by cogent and strong evidence, that the petitioner and Respondent 1 had been married to each other.

13.2. Secondly, as already discussed above, when the marriage between Respondent 1 and the petitioner was solemnised, the petitioner had kept Respondent 1 in dark about his first marriage. A false representation was given to Respondent 1 that he was single and was competent to enter into marital tie with Respondent 1. In such circumstances, can the petitioner be allowed to take advantage of his own wrong and turn around to say that the respondents are not entitled to maintenance by filing the petition under Section 125 CrPC as Respondent 1 is not "legally wedded wife" of the petitioner? Our answer is in the negative. We are of the view that at least for the purpose of Section 125 CrPC, Respondent 1 would be treated as the wife of the petitioner, going by the spirit of the two judgments we have reproduced above. For this reason, we are of the opinion that the judgments of this Court in Adhav [Yamunabai Anantrao Adhav v. Anantrao Shivram Adhav, (1988) 1 SCC 530 : 1988 SCC (Cri) 182] and Savitaben [Savitaben Somabhai Bhatiya v. State of Gujarat, (2005) 3 SCC 636 : 2005 SCC (Cri) 787] cases would apply only in those circumstances where a woman married a man with full knowledge of the first subsisting marriage. In such cases, she should know that second marriage with such a person is impermissible and there is an embargo under the Hindu Marriage Act and therefore she has to suffer the consequences thereof. The said judgment would not apply to those cases where a man marries a second time by keeping that lady in dark about the first

surviving marriage. That is the only way two sets of judgments can be reconciled and harmonised.

13.3. Thirdly, in such cases, purposive interpretation needs to be given to the provisions of Section 125 CrPC. While dealing with the application of a destitute wife or hapless children or parents under this provision, the Court is dealing with the marginalised sections of the society. The purpose is to achieve "social justice" which is the constitutional vision, enshrined in the Preamble of the Constitution of India. The Preamble to the Constitution of India clearly signals that we have chosen the democratic path under the rule of law to achieve the goal of securing for all its citizens, justice, liberty, equality and fraternity. It specifically highlights achieving their social justice. Therefore, it becomes the bounden duty of the courts to advance the cause of the social justice. While giving interpretation to a particular provision, the court is supposed to bridge the gap between the law and society.

15. The provision of maintenance would definitely fall in this category which aims at empowering the destitute and achieving social justice or equality and dignity of the individual. While dealing with cases under this provision, drift in the approach from "adversarial" litigation to social context adjudication is the need of the hour.

16. The law regulates relationships between people. It prescribes patterns of behaviour. It reflects the values of society. The role of the court is to understand the purpose of law in society and to help the law achieve its purpose. But the law of a society is a living organism. It is based on a given factual and social reality that is constantly changing. Sometimes change in law precedes societal change and is even intended to stimulate it. In most cases, however, a change in law is the result of a change in social reality. Indeed, when social reality changes, the law must change too. Just as change in social reality is the law of life, responsiveness to change in social reality is the life of the law. It can be said that the history of law is the history of adapting the law to society's changing needs. In both constitutional and statutory interpretation, the court is supposed to exercise discretion in determining the proper relationship between the subjective and objective purposes of the law.

18. The court as the interpreter of law is supposed to supply omissions, correct uncertainties, and harmonise results with justice through a method of free decision — libre recherché scientifique i.e. "free scientific research". We are of the opinion that there is a non-rebuttable presumption that the legislature while making a provision like Section 125 CrPC, to fulfil its constitutional duty in good faith, had always intended to give relief to the woman becoming "wife" under such circumstances. This approach is particularly needed while deciding the issues relating to gender justice. We already have examples of exemplary efforts in this regard. Journey from Shah Bano [Mohd. Ahmed Khan v. Shah Bano Begum, (1985) 2 SCC 556 : 1985 SCC (Cri) 245 : AIR 1985 SC 945] to Shabana Bano [Shabana Bano v. Imran Khan, (2010) 1 SCC 666 : (2010) 1 SCC (Civ) 216 : (2010) 1 SCC (Cri) 873 : AIR 2010 SC 305] guaranteeing maintenance rights to Muslim women is a classical example.

20. Thus, while interpreting a statute the court may not only take into consideration the purpose for which the statute was enacted, but also the mischief it seeks to suppress. It is this mischief rule, first propounded in Heydon case [(1584) 3 Co Rep 7a : 76 ER 637] which became the historical source of purposive interpretation. The court would also invoke the legal maxim construction of ut res magis valeat quam pereat in such cases i.e. where alternative constructions are possible the court must give effect to that which will be responsible for the smooth working of the system for which the statute has been enacted rather than one which will put a road block in its way. If the choice is between two interpretations, the narrower of which would fail to achieve the manifest purpose of the legislation should be avoided. We should avoid a construction which would reduce the legislation to futility and should accept the bolder construction based on the view that Parliament would legislate only for the purpose of bringing about an effective result. If this interpretation is not accepted, it would amount to giving a premium to the husband for defrauding the wife. Therefore, at least for the purpose of claiming maintenance under Section 125 CrPC, such a woman is to be treated as the legally wedded wife."



22. Relying upon the said judgment, Learned Senior Counsel submitted that, in view of the observations made by the Hon'ble Apex Court in the aforesaid case, and considering the facts and circumstances of the present matter, the respondent-O.P. was legally entitled to receive maintenance from the present petitioner. The Learned Trial Court, having considered all the relevant aspects of the matter, rightly granted interim maintenance in favour of the respondent, and there was no infirmity in the said order.

23. Learned Sr. Counsel further relied upon another judgment of this High Court, reported in ***Nityagopal Sukladas v. Anjali Nag Nath @ Sukladas*** passed by this Court in Crl.Rev.P Nos.53 and 69 of 2007 decided on 05.02.2014***,*** wherein, in para No. 8, 19 & 20 this High Court has observed as under:-

> ***"8. Mr. R. Datta, learned counsel appearing for the petitioner has submitted that the impugned judgment and order in Criminal Revision Petition No.53 of 2007 has been passed in contrast to the settled proposition of law as to whether the person who is not legally married can claim maintenance under Section 125 of the Cr.P.C. In support of his contention, Mr. R. Datta, learned counsel has relied on a decision of the apex Court in Smt. Yamunabai Anantrao Adhav vs. Anantrao Shivram Adhav and another, reported in AIR 1988 SC 644 where it has been held that:***
>
> > ***"4. The question, then arises as to whether the expression 'wife' used in Section 125 of the Code should be interpreted to mean only a legally wedded wife not covered by Section 11 of the Act. The word is not defined in the Code except indicating in the Explanation its inclusive character so as to cover a divorcee. A woman cannot be a divorcee unless there was a marriage in the eye of law preceding***

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that status. The expression must, therefore, be given the meaning in which it is understood in law applicable to the parties, subject to the Explanation (b), which is not relevant in the present context. 5. It has been contended on behalf of the appellant that the term 'wife ' in Section 125 of the Code should be given a wider and extended meaning so as to include therein not only a lawfully wedded wife but also a woman married in fact by performance of necessary rites or following the procedure laid down under the law. Relying upon the decision of this Court in Mohd. Ahmed khan v. Shah Bano Beghum (1985) 3 SCR 844 : (AIR 1985 SC 945), it was argued that the personal law of the parties to a proceeding under Section 125 of the Code should be completely excluded from consideration. The relationship of husband and wife comes to an end on divorce, but a divorcee has been held to be entitled to the benefits of the section, it was urged, and therefore applying this approach a woman in the same position as the present appellant should be brought within the sweep of the section. We are afraid, the argument is not well founded. A divorcee is included within the section on account of Clause (b) of the Explanation. The position under the corresponding Section 488 of the code of 1898 was different. A divorcee could not avail of the summary remedy. The wife's right to maintenance depended upon the continuance of her married status. It was pointed out in Shah Bano's case that since that right could be defeated by the husband by divorcing her unilaterally under the Muslim Personal Law or by obtaining a decree of divorce under any other system of law, it was considered desirable to remove the hardship by extending the benefit of the provisions of the section to a divorced woman so long as she did not remarry, and that was achieved by including Clause (b) of the Explanation. Unfortunately for the appellant no corresponding provision was brought in so as to apply to her. The legislature decided to bestow the benefit

> ***of the Section even on an illegitimate child by express words but none are found to apply to a de facto wife where the marriage is void ab initio."***
>
> ***[Emphasis added]***
>
> ***19. Badshah (supra) being the latest decision of the apex court binds this Court to follow the law as laid down therein. It has been admitted by the petitioner that he has lived together with the respondent as husband and wife and procreated two children. Hence, de facto marriage cannot be denied by him nor would it fit in his mouth to deny that relation. Such long living together itself provides the basis to presume that there has been a de facto marriage with or without concealment of the former marriage. Thus even if the respondent is not the wife dejure, for that de facto marriage, in terms of Badsha (supra), she is entitled to be treated as the legally married wife within the meaning of Section 125 of the Cr.P.C. As corollary thereof, she is entitled to the maintenance allowance. Having held so, this court is not inclined to interfere with the impugned judgments and orders.***
>
> ***20. The petitioner has introduced one affidavit in the evidence showing that the respondent had married one Bibhash Nath and the Notary Public who verified the affirmation has also been examined. However, the Sub-Divisional Judicial Magistrate, Dharmanagar did not give any finding on that aspect of the matter. As such, if the petitioner so desires, he can approach the appropriate court for getting out of the liability of the payment of maintenance to the respondent on alteration of the order of maintenance for the change in the circumstances. For now, the petitioner has to oblige the order of maintenance granted by the Sub-Divisional Judicial Magistrate and the Additional Sessions Judge, North Tripura, Dharmanagar. For non-payment, he is liable to be subjected to the enforcement proceeding."***

24. Relying upon the said judgment, he further submitted that the facts and circumstances of the present case are squarely covered by the aforesaid judgment. Finally, he submitted that there is no merit

in the petition filed by the present petitioner-husband and, as such, the same is liable to be dismissed with costs.

25. Heard Learned counsel for both the parties at length. Perused the petition filed by the respondent, the objection filed by the petitioner, and also perused the order dated 24.07.2025 passed by the Learned Additional Judge, Family Court, Agartala, West Tripura.

26. Now, before arriving at a conclusion, let us narrate hereinbelow the subject matter of the petition filed by the respondent before the Learned Family Court as the petitioner therein.

According to the respondent-petitioner, she had been working as an employee at the garment shop of the O.P., i.e. the present petitioner, namely "Kanai Textiles", situated at Central Road, Agartala, since 3rd December, 2008. Her first marriage was dissolved by a decree of divorce dated 26.11.2020, and out of the said wedlock, she has a son.

27. During the initial period of her employment at the said garment shop, the present petitioner allegedly approached the respondent-petitioner to establish a relationship with her, which she was initially not agreed. However, subsequently, owing to his assurances and good behaviour, and as the present petitioner expressed his love for the respondent-petitioner and assured her that he would lead a peaceful married life with her during the rest part of his life, she gradually became closer to him.

28. It was further stated that the present petitioner, as O.P., frequently called her to his room and proposed to marry, stating that he would soon divorce his wife, alleging that his wife had developed an extra-marital relationship with another man and that their matrimonial relationship had consequently deteriorated. On the basis of such representations and assurances, the respondent-petitioner became closer to the present petitioner. Subsequently, on 10.12.2010, the present petitioner, as O.P., allegedly represented to her that he had already divorced his wife and was, therefore, free to marry her.

29. The respondent-petitioner, believing the representation made by the O.P., i.e. the present petitioner herein, regarding his divorce, started living with him in good faith as his wife at his flat situated at Gurkhabasti and, sometimes, at his flat in Kolkata. Thereafter, when the father of the respondent-petitioner fell seriously ill and required an operation in Kolkata, the present petitioner-O.P. assured her that he would accompany her to Kolkata for the treatment of her father. Accordingly, they went to Kolkata, where the present petitioner stood by the respondent-petitioner and took care of her and her son during the treatment of her father. Thereafter, on 20.11.2012, the marriage between the parties was solemnized at the Kalighat Temple in the presence of a priest and the minor son of the respondent-petitioner. It was alleged that the present petitioner-O.P. applied vermilion on her forehead, accepted her as his wife, and undertook all responsibilities towards her.

30. Thereafter, they started living together as husband and wife and continued their conjugal life. During the course of their cohabitation, the respondent-petitioner became pregnant; however, due to alleged tremendous pressure and coercion, she was compelled to undergo an forceful abortion in the second week of September, 2014, at Kolkata.

31. It was further alleged that the present petitioner-O.P. introduced the respondent-petitioner to the other staff members of his shop as his wife. However, on 14.06.2022, the present petitioner suddenly changed his behaviour and informed the respondent-petitioner that he was no longer interested in living with her. He thereafter blocked her telephone number. Subsequently, on 23.08.2022, the petitioner-O.P. allegedly deserted the respondent-petitioner after subjecting her to mental and emotional torture, as a result of which she was compelled to take shelter at her father's residence.

Thereafter, the respondent-petitioner instituted a proceeding under the Domestic Violence Act, which is stated to be pending. She also filed a petition seeking maintenance against the present petitioner.

32. The present petitioner, as the opposite party, contested the proceeding by filing a written objection, wherein he denied all the assertions and allegations made by the respondent-petitioner in her application. He also took the plea that he had been married to one Shipra Saha for long back and that, out of their wedlock, a daughter, namely, Sri Bijoyeta Saha, and a son, namely, Rupsankar Saha, were

born. He further stated that both of his children had already got married in the years 2011 and 2016, respectively, and that they have children of their own.

33. According to the petitioner, following the termination of the employment of one Suman Saha, he alleged that said Suman Saha, along with other employees, including the respondent-petitioner, had conspired against him and instituted the present proceeding with a mala fide intention. He further denied having shared any household with the respondent-petitioner or having led any conjugal life with her. He also denied that they had ever resided together at any place as husband and wife.

34. It was further submitted that, after the respondent-petitioner obtained a divorce from her first husband in the year 2010, she and her son became close to the wife of the present petitioner-O.P. and, owing to their financial difficulties, gained her sympathy. The wife of the petitioner-O.P., considering the respondent-petitioner to be a helpless woman, provided her financial assistance from time to time. It was further stated that the wife of the petitioner-O.P. subsequently died on 09.01.2020.

35. It was further submitted that, since the marriage of the petitioner-O.P. with the said Shipra Saha subsisted until her death, the question of solemnizing a second marriage during the subsistence of the said marriage did not arise. Accordingly, by filing the written

objection, the petitioner-O.P. prayed for dismissal of the application for interim maintenance.

36. However, after hearing both sides, the Learned Trial Court was pleased to grant ad-interim maintenance at the rate of Rs.15,000/- per month in favour of the respondent-petitioner, till disposal of the maintenance petition by the said Court.

37. I have heard Learned counsel for both the parties at length. The original petition is still pending for disposal. I have also perused the order passed by the Learned Additional Judge, Family Court, Agartala, West Tripura.

38. It is an admitted position that, after obtaining a divorce from her first husband, the respondent-petitioner became helpless and took up employment at the shop of the petitioner-O.P. During the said period, both the parties came into contact with each other and developed a relationship.

39. The issue regarding getting married by the petitioner to the respondent is yet to be determined by the Learned Trial Court in the main proceeding. The present petitioner, although, has taken the plea that his marriage with Shipra Saha continued to subsist until her death and, therefore, the question of his marriage with the respondent-petitioner does not arise. At the same time, he has admitted that he travelled to different places with the respondent-petitioner. He has also admitted the photographs placed by the respondent-petitioner before the Learned Trial Court. Furthermore, he has admitted that he had

spent a sum of Rs.20,00,000/- towards the education of the son of the respondent-petitioner.

40. Although Learned Counsel appearing for the present petitioner took the plea that the petitioner had never married the respondent at Kalighat Temple in the year 2012, no marriage certificate or independent evidence was produced to substantiate the said contention. Rather, he sought to draw the attention of this Court to the allegation that one Suman Saha and others had falsely implicated the petitioner at the instance of the respondent-petitioner, as Suman Saha had been terminated from the petitioner's shop.

41. However, it is admitted that the petitioner had engaged the respondent-petitioner as an employee in his shop in the year 2008-2010, after her divorce from her first husband. The main proceeding is still pending for adjudication. The allegations and counter allegations of the parties are to be decided in the main proceeding by the Learned Trial Court.

42. However, at the time of hearing, both the sides referred to certain judgments. Learned Senior Counsel, Mr. Roy Barman, appearing on behalf of the respondent, relied upon the judgment of the Hon'ble Supreme Court reported in ***(2014) 1 SCC 188, Badshah v. Urmila Badshah Godse & Anr.*** *(supra),* wherein, in paragraph 20, the Hon'ble Apex Court observed that, while interpreting a statute the Court may not only take into consideration the purpose for which the statute was enacted, but also the mischief it seeks to suppress. It is the mischief



rule, first propounded in *Heydon case* which became the historical source of purposive of interpretation. The Court would also invoke the legal maxim construction of *ut res magis valeat quam pereat* in such cases i.e. where alternative constructions are possible the Court must give effect to that which will be responsible for the smooth working of the system for which the statute has been enacted rather than one which will put a road block in its way. If the choice is between the two interpretations, the narrower of which would fail to achieve the manifest purpose of the legislation should be avoided.

43. Thus, the Hon'ble Apex Court observed that a construction which would reduce the legislation to futility ought to be avoided, and a broader construction should be adopted on the premise that Parliament legislates with the object of achieving an effective and meaningful result. If such an interpretation is not adopted, it would amount to conferring a premium upon a husband for defrauding his wife. Therefore, at least for the purpose of claiming maintenance under Section 125 of the Cr.P.C., such a woman ought to be treated as a legally wedded wife. Accordingly, the Hon'ble Apex Court granted relief in favour of the petitioner.

44. Viewed in the aforesaid perspective, in the case at hand, prima facie, it appears that the parties maintained a relationship with each other for a considerable period. They resided together as husband and wife, travelled to different places, and took photographs together. The present petitioner also spent money towards the care and well-



being of the respondent-petitioner and her son and incurred expenses towards the education of her son. Further more the petitioner disclosed the respondent that his marriage with Shipra Saha was ended in divorce which he disclosed on 10.12.2010. Thus he duped the respondent by suppressing the fact of his relationship with Shipra Saha as husband and wife.

45. Thus, at this stage, considering the facts and circumstances of the case, and since the original petition is still pending for disposal, this Court, without making any further observation on the merits of the main proceeding, is of the view that there is no infirmity in the order passed by the Learned Additional Judge, Family Court, Agartala, West Tripura, granting interim maintenance in favour of the respondent-petitioner.

Accordingly, the present petition filed by the petitioner stands rejected, being devoid of merit.

46. The Learned Trial Court is directed to dispose of the main petition at the earliest convenience, without being influenced or prejudiced by any of the observations made by this Court in the present petition or in this order, after affording adequate opportunity to both the parties to adduce their respective evidence.

With these aforesaid observations the present revision petition is stands disposed of.

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Send down the copy of the judgment/order to the Learned Trial Court immediately, for information and necessary action.

Also a copy of this order/judgment be circulated to all the Family Court's across the State.

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

JUDGE

HIGH COURT OF TRIPURA

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SATABDI DUTTA

Digitally signed by SATABDI DUTTA
Date: 2026.09.11 18:05:54 +05'30'

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