

**HIGH COURT OF TRIPURA
AGARTALA
Crl. Rev. Pet. No.09 of 2025**

Smt. Dipanwita Debnath (age 20+),
Daughter of Radharaman Debnath,
Address- Baishnabi Char, Jamjuri,
PO- Jamjuri, PS-Kakraban, Udaipur,
Gomati District.

.... Wife Revision Petitioner

Versus

Sri Paritosh Debnath (age 40+),
S/o- Kalipada Debnath,
Address- Mahashakti, Vidyasagar,
PO- Agartala College, PS- East Agartala,
District- West Tripura.

.....Husband-Respondent

Crl. Rev. Pet. No.21 of 2025

Sri Paritosh Debnath (aged about 40 years),
Son of Kalipada Debnath,
Resident of Mahashakti, Vidyasagar,
P.O.- Agartala College, P.S.- East Agartala,
District- West Tripura, PIN-799003.

.... Petitioner

Versus

- 1. Smt. Dipanwita Debnath,**
Wife of Sri Paritosh Debnath,
Daughter of Sri Radharaman Debnath,
Resident of Baishnabi Char, Jamjuri,
P.O.- Jamjuri, P.S.- Kakraban,
District- Gomati, Tripura.
 - 2. The State of Tripura.**
- Respondents**

In Crl. Rev. Pet. No.09 of 2025

For Petitioner(s) : Mr. Abir Baran, Adv.
Mr. Akash Pal, Adv.
For Respondent(s) : Mr. Sankar Lodh, Adv.

In Crl. Rev. Pet. No.21 of 2025

For Petitioner(s) : Mr. Sankar Lodh, Adv.
For Respondent(s) : Mr. Soumyadeep Saha, Addl. P.P.
Mr. Abir Baran, Adv.

Date of Hearing : 28.07.2026

Date of delivery of
Judgment and Order : 05.08.2026

Whether fit for
Reporting : **YES**

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

Both the criminal revision petitions are taken up together for hearing and dismissal by this common judgment as both the petitions have arisen out of common judgment and order.

02. The Criminal Revision Petition No.09 of 2025 has been filed by the petitioner-wife for enhancement of the amount of maintenance awarded by the Learned Trial Court and the Criminal Revision Petition No.21 of 2025 has been filed by the husband for setting aside the order of maintenance granted by the Learned Judge, Family Court, Udaipur, Gomati District, Tripura dated 16.12.2024 in connection with Criminal Misc. No.123 of 2022.

03. Heard Learned Counsel, Mr. A. Baran appearing on behalf of the petitioner-wife in Crl. Rev. Pet. No.09 of 2025 and respondent-wife in Crl. Rev. Pet. No.21 of 2025 (hereinafter referred to as petitioner-wife). Also heard Learned Counsel, Mr. S. Lodh appearing on behalf of the respondent-husband in Crl. Rev. Pet. No.09 of 2025 and petitioner-husband in Crl. Rev. Pet. No.21 of 2025 (hereinafter referred to as respondent-husband).

04. Now, let us discuss herein below the respective contention of the parties before the Learned Judge, Family Court, Udaipur, Gomati District, Tripura.

The petitioner-wife Smt. Dipanwita Debnath filed one case before the Learned Judge, Family Court, Udaipur, Gomati District, Tripura with an assertion that her marriage was solemnized with respondent-husband Paritosh Debnath on 2022 in the paternal house of the petitioner-wife as per Hindu Marriage Rites and Customs. But from the very beginning of her matrimonial life with the respondent-husband that she was ignored by her husband and faced in difference from him. Even the respondent-husband refused to go to her parental house after 'Bou Bhat' ceremony for two days as per local custom.

05. Being disturbed by such behavior of respondent-husband the father of the petitioner-wife went to her matrimonial home and brought her to his house on 01.10.2022 on the day of 'Shasthi of Durga Puja'. During the period of stay of the petitioner-wife at her matrimonial home the respondent-husband used to come late at night and refused to share bed with her. The respondent-husband also refused to use the gifts received by the petitioner-wife in her marriage such as furniture and utensils.

06. The father of the petitioner-wife contacted the respondent-husband over telephone and requested him to come to his house to take the petitioner-wife back to her matrimonial home. As a result, on 10.10.2022 the respondent-

husband went to his parents-in-laws' house and brought her back to his house. But the respondent-husband did not change his attitude and behavior towards the petitioner-wife and again started coming home late at night after taking his dinner outside. Then the petitioner-wife raised the matter before the parents of the respondent-husband but his parents advised the petitioner-wife to adjust with the lifestyle of the respondent-husband. The petitioner-wife did not have any mobile phone and as such she could not contact her parents. However, being worried about the disturbed mental condition and marital life of the petitioner-wife, the father of the petitioner-wife came to her matrimonial home on 19.10.2022 and took her away to his house for few days making a request to the respondent-husband to come to his house to give consolation to the petitioner-wife. But the respondent-husband had been showing indifferent towards the petitioner-wife as well as his obligation towards the marital life.

07. The petitioner-wife was willing to restore and lead a peaceful conjugal life but the respondent-husband was reluctant. Rather the respondent-husband expressly and impliedly communicated that he was not ready to have a conjugal life with the petitioner-wife. Due to the mental harassment, the petitioner-wife left her matrimonial home and took shelter at her paternal house. It was further asserted that the respondent-husband was earning Rs.30,000/- (Rupees

Thirty Thousand only) per month and she claimed maintenance accordingly.

08. The respondent-husband is the petitioner in Crl. Rev. Pet. No.21 of 2025 before the Learned Trial Court contested the same denying the assertions of the petitioner-wife in the petition by filing written objection and it was asserted that the petitioner-wife misbehaved and quarreled with the respondent-husband and maintained illicit relation with another person. The respondent-husband also denied the allegation that he did not pay visit to the residence of his father-in-law.

09. It was further asserted by the respondent-husband that the petitioner-wife voluntarily left his house on 19.10.2022 without any reason and without informing the respondent-husband and his family members and inspite of his efforts she did not come back. He also submitted that he is a Group-C employee of Tripura Legislative Assembly, Agartala. He further submitted that the petitioner-wife is having adulterous relation with another person which caused harassment to the respondent-husband. It was further submitted that the petitioner-wife was indifferent to household works and also behaved in indecent manner to the family members of the respondent-husband. So, the respondent-husband prayed for dismissal of the criminal revision petition.

10. Learned Judge, Family Court, Udaipur, Gomati District, Tripura framed the following four points for consideration of the petitioner-wife:-

(1) Whether the petitioner is the legally married wife of the OP?

(2) Whether the petitioner has any valid reason of not staying with the OP?

(3) Whether the petitioner is entitled to get maintenance?

(4) What should be the quantum of maintenance, if allowed?

Both the parties adduced evidence on record before the Learned Judge, Family Court and finally by the judgment and order dated 16.12.2024 Learned Judge, Family Court, Udaipur, Gomati District, Tripura allowed the petition for maintenance filed by the petitioner-wife.

11. At the time of hearing, Learned Counsel for the petitioner-wife drawn the attention of the Court referring Para No.11 of the written objection wherein it has been specifically stated by the respondent-husband that after the marriage, the respondent-husband could know the petitioner-wife has/had relationship with another person and after marriage she continued her illicit relation and when the respondent-husband came to know the matter then the petitioner-wife started quarrel with him and ultimately harassed the respondent-husband.

Referring the said paragraph of written objection filed by the respondent-husband, Learned Counsel for the petitioner-wife drawn the attention of the Court that before the

Learned Judge, Family Court the respondent-husband could not prove that allegation which also amounts to cruelty and furthermore the act and conduct and the respondent-husband shows that the respondent-husband refused and neglected to take care and provide maintenance to the petitioner-wife.

12. It was further submitted by Learned Counsel for the petitioner-wife referring the cross-examination of the respondent-husband wherein he admitted before the Learned Judge, Family Court, Udaipur, Gomati District, Tripura that his monthly salary is Rs.48,256/-.

Referring the same, Learned Counsel submitted that before the Learned Judge, Family Court although the petitioner-wife could not produce any monthly income certificate of the respondent-husband but since the respondent-husband himself admitted that he was earning Rs.48,256/- and he is a Government Servant attached to Tripura Legislative Assembly. So the Learned Court below without considering the same only awarded Rs.1500/- (Rupees Fifteen Hundred only) as maintenance to the petitioner-wife which was too less for survival of the petitioner-wife and beyond the established guidelines.

13. It was further submitted that Learned Counsel for the respondent-husband may draw the attention of the Court that there was a decree of restitution of conjugal rights which was filed by the respondent-husband against the petitioner-wife but for that decree there is no scope to deny the

maintenance if claims by the petitioner-wife. In this regard, Learned Counsel drawn the attention of the Court referring one judgment of the Hon'ble Supreme Court of India in ***Rina Kumari alias Rina Devi alias Reena Vs. Dinesh Kumar Mahto alias Dinesh Kumar Mahato and Another*** reported in **(2025) 3 SCC 33** in Para Nos.1, 10, 11, 12, 13, 14, 18, 21, 41 and submitted that the observation made by the Hon'ble Supreme Court squarely covers the case of the petitioner-wife and urged for enhancement of the award of maintenance awarded by the Learned Trial Court. The aforesaid para numbers of the citation are narrated herein below:-

"1. Will a husband, who secures a decree for restitution of conjugal rights, stand absolved of paying maintenance to his wife by virtue of Section 125(4) of the Code of Criminal Procedure, 1973, if his wife refuses to abide by the said decree and return to the matrimonial home?

10. On the same lines, in *Chaturbhuji v. Sita Bai* : (2008) 2 SCC 316, this Court observed that the object of maintenance proceedings is not to punish a person for his neglect but to prevent the vagrancy and destitution of a deserted wife, by providing her food, clothing and shelter by a speedy remedy. It was held that Section 125 CrPC is a measure of social justice, especially enacted to protect women and children, falling within the constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution. Thus, the objective of the provision, then and now, is to alleviate the financial plight of destitute wives, children and now, parents, who are left to fend for themselves.

11. In *Bhuvan Mohan Singh v. Meena* : (2015) 6 SCC 353, this Court observed that Section 125 CrPC was conceived to ameliorate the agony, anguish and financial suffering of a woman, who left her matrimonial home for the reasons provided in the provision, so that some suitable arrangement can be made by the Court and she can sustain herself and also her children, if they are with her. It was held that the concept of sustenance did not necessarily mean "to lead the life of an animal, feel like an unperson to be thrown away from grace and roam for her basic maintenance somewhere else" and the wife would be entitled in law to lead a life in a similar manner as she would have lived in the house of her husband. This Court further cautioned that, in a proceeding of this

nature, the husband cannot be permitted to take subterfuge to deprive the wife of the benefits of living with dignity and there could be no escape route, unless there is an order from the Court that the wife is not entitled to get maintenance from the husband on legally permissible grounds.

12. Earlier, in *Badshah v. Urmila Badshah Godse* : (2014) 1 SCC 188, this Court held that the provision of maintenance aims at empowering the destitute and achieving social justice or equality and dignity of the individual and while dealing with cases thereunder, the drift in the approach from adversarial litigation to social context adjudication is the need of the hour.

13. More recently, in *Rajnesh v. Neha*: (2021) 2 SCC 324, this Court emphasized that maintenance laws were enacted as a measure of social justice to provide recourse to dependent wives and children for their financial support, so as to prevent them from falling into destitution and vagrancy.

14. In *Shamima Farooqui vs. Shahid Khan* : (2015) 5 SCC 705, this Court noted that the inherent and fundamental principle behind Section 125 CrPC is the amelioration of the financial state of affairs as well as the mental agony and anguish that a woman suffers when she is compelled to leave her matrimonial home. It was further observed that, as per law, she is entitled to lead life in a similar manner as she would have lived in the house of her husband and as long as she is held entitled to grant of maintenance within the parameters of Section 125 CrPC, it has to be adequate so that she can live with dignity. Lastly, it was noted that, a plea is sometimes advanced by the husband that he does not have the means to pay as he does not have a job or his business is not doing well, but these are only bald excuses and, in fact, they have no acceptability in law as a husband, who is healthy, able-bodied and in a position to support himself is under a legal obligation to support his wife and her right to receive maintenance under Section 125 CrPC, unless disqualified, is an absolute right.

18. In *Sampuran Singh v. Gurdev Kaur* : 1985 SCC OnLine P&H 44, the Punjab and Haryana High Court observed that a wife can still claim maintenance in the presence of a decree for restitution of conjugal rights if the conduct of the husband is such that it obstructs her from obeying the decree.

21. In *Subal Das v. Mousumi Saha* : 2017 SCC OnLine Tri 175, the Tripura High Court held that a wife who refuses to comply with a decree for restitution of conjugal rights cannot be deprived of maintenance under Section 125(4) CrPC. It was observed that it would be incongruent to assume that a wife against whom a decree for restitution has been passed is disentitled to maintenance while a wife who has been divorced can still claim the same. It was further observed that the civil court's judgment for restitution can only be treated as relevant evidentiary material but the conduct of the wife

i.e. whether she had sufficient reason to refuse to live with the husband, has to be assessed by the Magistrate and only thereafter, it could be decided whether she would be entitled to maintenance or not. It was concluded that the restriction imposed by Section 125(4) CrPC had been substantially diluted, if not virtually negated.

41. The reason for this is not far to gather. In *Rohtash Singh v. Ramendri* : (2000) 3 SCC 180, this Court clarified that a wife, who suffered a decree of divorce on the ground of deserting her husband, would not be entitled to maintenance under Section 125 CrPC as long as the marriage subsisted, but she would be entitled to such maintenance once she attained the status of a divorced wife, in the light of the definition of a "wife" in Explanation (b) of Section 125(1) CrPC. Dinesh, therefore, sought to protect himself from a claim by Reena for maintenance by projecting the disobeyed restitution decree as a defence and as long as she did not attain the status of a divorced wife, that protection would endure to his benefit. This stalemate of sorts created by Dinesh clearly reflects his lack of bona fides and demonstrates his attempt to disown all responsibility towards his wife, Reena. These factors, taken cumulatively, clearly manifest that Reena had more than sufficient reason to stay away from the society of her husband, Dinesh, and her refusal to live with him, notwithstanding the passing of a decree for restitution of conjugal rights, therefore, cannot be held against her. In consequence, the disqualification under Section 125(4) CrPC was not attracted and the High Court erred grievously in applying the same and holding that Reena was not entitled to the maintenance granted to her by the Family Court."

14. On the other hand, Learned Counsel, Mr. S. Lodh appearing on behalf of the respondent-husband drawn the attention of the Court that the petitioner-wife stayed at her matrimonial home for a period of less than two months and during that period she left her matrimonial home without consulting her husband and his family members often on even the petitioner-wife before the Learned Trial Court could not adduce any satisfactory evidence that she was subjected to mental and physical cruelty by the respondent-husband and furthermore since the petitioner-wife has voluntarily left her matrimonial home, so in view of Section 125(4) of Cr.P.C. she

was not entitled to get any maintenance from her husband and urged before the Court to set aside the order of maintenance passed by Learned Judge, Family Court as the Learned Trial Court failed to appreciate the evidence on record..

15. Heard both the parties at length and perused the judgment of the Learned Trial Court as well as the evidence on record very carefully.

There is no dispute on record that the petitioner-wife Dipanwita Debnath is the legally married wife of Paritosh Debnath. The respondent-husband also did not raise any dispute of his marriage with the petitioner-wife.

16. From the judgment of the Learned Trial Court and also from the evidence on record it appears that, the main dispute arose amongst the party on the ground of maintaining alleged illicit relation by the petitioner-wife with another person. Because the respondent-husband in his written objection also raised this plea but unfortunately he could not prove that allegation before the Learned Trial Court which amounts to cruelty and furthermore, although the petitioner-wife stayed at her matrimonial home for a very limited period of time but it appears that the act and conduct of the respondent-husband was not at all conducive for resumption of her conjugal life with the respondent-husband at her matrimonial home for a long period where the integrity and chastity of the petitioner-wife was doubted by the respondent-husband.

17. Learned Counsel for the respondent-husband also tried to draw the attention of the Court that there was a decree of restitution of conjugal rights in favour of the respondent-husband but inspite of decree the petitioner-wife did not resume her conjugal life with the respondent-husband at her matrimonial home. So in summing up Learned Counsel for the respondent-husband urged before the Court to set aside the order of maintenance awarded by the Learned Trial Court.

18. As already stated, there is no dispute on record in respect of the fact of marriage of the petitioner-wife by the respondent-husband. It is also on record that, the petitioner-wife stayed at her matrimonial home for a very limited period and during that period she also came to her parental home on the ground of raising question of chastity by the respondent-husband about her and also on that ground the respondent-husband failed to maintain the marital obligation soon after the marriage which compelled the petitioner-wife to leave her matrimonial home. Even it is on record that the respondent-husband sometimes used to come back to residence at late night and failed to take proper care of the petitioner-wife and furthermore the respondent-husband also failed to provide maintenance to her. Even the parents of respondent-husband inspite of giving any consolation to the petitioner-wife advised to adjust with the respondent-husband regarding his returning back home at late night. Since, the respondent-husband in his objection specifically asserted that the petitioner-wife had

developed illicit relation with another person which he has failed to establish before the Learned Trial Court by adducing any convincing materials on record. Thus, it appears to this Court that, this allegation itself is a ground of serious mental cruelty upon the petitioner-wife by her husband and furthermore, since the respondent-husband failed to satisfy this Court showing any evidence on record that he has fulfilled the marital obligation towards his wife. So, in my considered view after considering the materials on record, Learned Trial Court rightly decided the petition in favour of the petitioner-wife and determined all the aforesaid points in favour of the petitioner-wife. But surprisingly the Learned Trial Court only awarded maintenance @ Rs.1500/- per month which according to this Court was too less and contrary to the observation made by the Hon'ble Apex Court. In this regard, Hon'ble the Supreme Court in **Rajnesh Vs. Neha and Ors.** in **SLP(Crl.) No.9503 of 2018** observed that the object of granting interim/permanent alimony is to ensure that the dependent spouse is not reduced to destitution or vagrancy on account of the failure of the marriage, and not as a punishment to the other spouse. There is no straitjacket formula for fixing the quantum of maintenance to be awarded.

The factors which would weigh with the Court inter alia are the status of the parties; reasonable needs of the wife and dependent children; whether the Applicant is educated and professionally qualified; whether the Applicant has any

independent source of income; whether the income is sufficient to enable her to maintain the same standard of living as she was accustomed to in her matrimonial home; whether the Applicant was employed prior to her marriage; whether she was working during the subsistence of the marriage; whether the wife was required to sacrifice her employment opportunities for nurturing the family, child rearing, and looking after adult members of the family; reasonable costs of litigation for a non-working wife : (2011) 13 SCC 112.

19. Here in the case at hand, there is no evidence on record that the petitioner-wife is serving or earning anything. Rather it is on record that the respondent-husband was earning Rs.48,256/- at the time of recording evidence by the Learned Trial Court. But surprisingly, it is not clear as to how the Learned Trial Judge has determined the amount of maintenance of Rs.1500/- in favour of the petitioner-wife without considering her status and standard of living. Since, the respondent-husband has failed to project any case for invoking of Section 125(4) of Cr.P.C. before the Learned Trial Court and at the time of hearing also Learned Counsel for the respondent-husband could not place any material before this Court to apply the same provision in deciding this revision petition. So, after hearing both the parties it appears to this Court that the order passed by the Learned Judge, Family Court needs to be interfered with and the amount of

maintenance awarded in favour of the petitioner-wife needs to be enhanced.

20. In the result, the criminal revision petition [*Crl. Rev. Pet. 09 of 2025*] filed by the petitioner-wife is allowed and the criminal revision petition [*Crl. Rev. Pet. 21 of 2025*] filed by the respondent-husband stands rejected being devoid of merit.

The petitioner-wife is entitled to get maintenance @Rs.10,000/- (Rupees Ten Thousand Only) per month from the respondent-husband w.e.f. 09.11.2022.

The amount of maintenance already been paid by the respondent-husband in favour of the petitioner-wife shall be deducted from the amount of maintenance awarded by this Court. The arrear of maintenance w.e.f. 09.11.2022 to July, 2026 shall be paid by the respondent-husband in favour of the petitioner in 50 (fifty) equal installments after deducting the amount of maintenance if already been paid. The maintenance allowance for the month of August, 2026 onwards shall be directly paid to the respective bank account of the petitioner-wife by the respondent-husband as ordered in the judgment dated 16.12.2024.

With these observations, these criminal revision petitions stands disposed of.

Pending application/s, if any, also stands disposed of.

Send down the record to the Learned Trial Court along with a copy of this judgment/order.

Also a copy of this judgment/order be supplied to
Learned Counsels of both the parties at free of cost.

JUDGE



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