

**HIGH COURT OF TRIPURA  
AGARTALA**

**CRL.REV.P.No.57 OF 2023**

**1. Shri Dulal Deo**

S/o- Lt. Gopal Deo  
Resident of Vill- Lalchari, Kartik  
Debbarma Para, P.O. & P.S-Ambassa,  
Dist.-Dhalai Tripura, Pin-799289

-----Petitioner(s)

Versus

**1. Smt. Alu Deo,**

W/o- Shri Ankio Mog  
Resident of Vill- Lalchari, Kartik  
Debbarma Para, P.O. & P.S-Ambassa  
Dist.- Dhalai Tripura, Pin- 799289

----- Respondent(s)

For Petitioner(s)	:	Ms. S. Deb (Gupta), Adv.
For Respondent(s)	:	None
Date of Hearing & delivery of Judgment and Order	:	22.12.2023
Whether fit for Reporting	:	NO

**HON'BLE MR. JUSTICE BISWAJIT PALIT**

**Judgment & Order(Oral)**

Learned Counsel Ms. S. Deb (Gupta) is present for the petitioner. Today also no step was taken by the respondent wife inspite of receiving notice and opportunity being given by the Court to appear.

**02.** Heard Learned Counsel for the petitioner at length. Considered. Accordingly, order/judgment is passed today.

**03.** This present petitioner has preferred this Revision Petition under Section 19(4) of the Family Courts Act, 1984 read with Section 397 of 401 of Cr.P.C., challenging the order dated 22.09.2023 passed by Learned Judge, Family Court, Ambassa, Dhalai in connection with case No. Criminal Misc.(M) 08 of 2022.

**04.** In course of hearing, being asked by this Court Learned Counsel for the petitioner submitted that by the said order Learned Court below has closed the scope for evidence of the petitioner husband which affected the rights of the present petitioner because in the proceeding pending before the Learned Court below the present petitioner has denied the fact of his marriage with the respondent wife and Learned Counsel also submitted that if the present petitioner is not given the scope to adduce evidence in support of his defence in that case he would seriously suffer an irreparable loss and would be highly prejudiced. So, for fair ends of justice, Learned Counsel submitted before the Court to set aside the order and to allow the petitioner husband to adduce his evidence before the Learned Court below for proper adjudication of the proceeding. It was further submitted that in the order of the Learned Court below, it was mentioned that inspite of allowing opportunity for four times the petitioner husband could not adduce his evidence before the Learned Court. But due to absence of the Learned

Presiding Officer on 30.05.2023, 21.06.2023 and 25.07.2023, no hearing could take place. So, Learned Counsel urged before the Court to allow the revision petition for the sake of justice. She also relied upon few citations in course of hearing.

**05.** Now, before entering into the merit of this petition, let us see what the legal position is. In this regard, it is apposite to refer herein below the relevant provision of Section 19(4) of the Family Courts Act, 1984.

**"19(4):** The High Court may, of its own motion or otherwise, call for an examine the record of any proceeding in which the Family Court situate within its jurisdiction passed an order under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974) for the purpose of satisfying itself as to the correctness, legality or propriety of the order, not being an interlocutory order, and as to the regularity of such proceeding."

From the above legal provision, it is very much clear that no revision can lie under sub-section (4) of Section 19 of the Family Courts Act against an "interlocutory order".

**06.** In this regard, in course of hearing, Learned Counsel submitted that although there is bar of 'revision' against the "interlocutory order". But by the impugned order, Learned Court below finally curtailed the right of the petitioner husband to adduce any evidence and since the petitioner husband has denied the fact of his marriage by his written objection before the Learned Court below, in that case, if the present petitioner husband is not given the scope

to adduce his evidence, he would seriously suffer irreparable loss and would be seriously prejudiced and thus order dated 22.09.2023 may be treated as final order and relied upon the following citations.

**07.** In **Rajendra Kumar v. Rukhmani Bisen**, in Misc. Crl. Case No. 60364 of 2022 dated 02.02.2023 reported in **(2023) SCC OnLine MP 2822**, Hon'ble the Madhya Pradesh High Court in Para Nos. 16 and 17 have observed as under:

**"16. In the case of Aakansha Shrivastava v. Virendra Shrivastava (2010) 3 MP LJ 151 Division Bench of the Madhya Pradesh High Court has held as under:-**

**"17. Interim maintenance had been granted under Section 125 Cr.P.C. and the issue arose whether a revision petition could be preferred against that order, as it was alleged to be interlocutory in nature. It was held that the order of interim maintenance was an intermediate or quasi final order. Analogy was drawn from Section 397 (2) of the Cr.P.C. and the pronouncement of the Supreme Court in Amarnath v. State of Haryana (1977) 4 SCC 137 : AIR 1977 SC 2185 qua the said provision was relied upon. Thus, an order which substantially affects the rights of an accused and decides certain rights of the parties was held not to be an interlocutory order so as to bar revision."**

**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. The State of Jharkhand*, 2006 Cri L.J. 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."

**08.** In **Amarnath and others vs. State of Haryana and Another**, in Criminal Appeal No. 124 of 1977 dated 29.07.1977 reported in **(1977) 4 SCC 137**, Hon'ble the Supreme Court in Para No. 6 of the said judgment further observed as under:

"6. Let us now proceed to interpret the provisions of Section 397 against the historical background of these facts. Sub-section (2) of Section 397 of the 1973 Code may be extracted thus :

"The powers of revision conferred by Sub-section (1) shall not be exercised in relation to any interlocutory order passed in any appeal, inquiry, trial or other proceeding."

The main question which falls for determination in this appeal is as to what is the connotation of the term "interlocutory order" as appearing in sub-section (2) of Section 397 which bars any revision of such an order by the High Court. The term "interlocutory order" is a term of well-known legal significance and does not present any serious difficulty. It has been used in various statutes including the Code of Civil Procedure. Letters Patent of the High Courts and other like statutes. In Webster's New World Dictionary "interlocutory" has been defined as an order other than final decision. Decided cases have laid down that interlocutory orders to be appealable must be those which decide the rights and liabilities of the parties concerning a particular aspect. It seems to us that the term "interlocutory order" in Section 397 (2) of the 1973 Code has been used in a restricted sense and not in any broad or artistic sense. It merely denotes orders of a purely interim or temporary nature which do not decide or touch the important rights, or the liabilities of the parties. Any order which substantially affects the right of the accused, or

decides certain rights of the parties cannot be said to be an interlocutory order so as to bar a revision to the High Court against that order, because that would be against the very object which formed the basis for insertion of this particular provision in Section 397 of the, 1973 Code. Thus, for instance, orders summoning witnesses, adjourning cases, passing orders for bail, calling for reports and such other steps in aid of the pending proceeding, may no doubt amount to interlocutory orders against which no revision would lie under Section 397 (2) of the 1973 Code. But orders which are matters of moment and which affect or adjudicate the rights of the accused or a particular aspect of the trial cannot be said to be interlocutory order so as to be outside the purview of the revisional jurisdiction of the High Court."

Referring the aforesaid citations Learned Counsel, drawn the attention of this Court that on 22.09.2023 although the petitioner husband was present before the Learned Court below but he sought time for adducing witness which was rejected by the Learned Court below and if the present petitioner husband, who has denied the fact of his marriage with the respondent wife is not given the scope to adduce evidence to sustain his defence properly then the present petitioner husband would be seriously prejudiced and there would be miscarriage of justice. So, Learned Counsel submitted before the Court to set aside that order for the sake of justice.

**09.** I have perused Section 19(4) of the Family Courts Act. The law is very clear that in respect of "interlocutory order" there is no legal scope to file any revision petition before the appropriate Court under Section 19(4) of the

Family Courts Act. I have also gone through the principles of the aforesaid citations relied upon by the petitioner husband. It appears to me that the Learned Court below by that order finally closed the right of the petitioner to adduce evidence in support of his defence.

**10.** Thus, it appears to me that by the said order the right of the petitioner husband to adduce evidence has been affected/closed, finally, which in my considered view cannot be treated as an "interlocutory order". Hence, I am of the considered opinion that revision petition would lie against that order before the Court. Now, coming to the merit of the petition, it appears that by order dated 25.04.2023 after recording evidence of the respondent wife the case was posted for cross-examination of OPWs on 30.05.2023. But on 30.05.2023, the Learned Presiding Officer was on leave. So, the case was further posted for cross-examination of OPWs on 22.09.2023 and on that scheduled day (although as per order sheet it appears that the order was passed on 21.06.2023) due to absence of Presiding Officer the case was further posted for cross-examination of the OPWs on 25.07.2023. And again on that day also the Presiding Officer of the concerned Court was on leave, so, the case was again posted for cross-examination of OPWs on 24.08.2023 and on that day the present petitioner sought time to adduce evidence which was considered fixing 22.09.2023 as final

chance for OPWs and on 22.09.2023 the petitioner O.P although present but his witnesses were absent. So, Learned Court below rejected the petition and posted the case for hearing of arguments on 19.10.2023 and after that on 19.10.2023 the case was further posted for judgment/ final order on 29.11.2023. By this time, the record was called for.

**11.** From the aforesaid orders, it appears that the proceeding before the Learned Court below was delayed not for the fault of the petitioner husband but due to absence of the regular Presiding Officer and the case could not be disposed of. On 22.09.2023 the petitioner husband although appeared but he could not appear with his witnesses. On that day, Learned Court below could record his evidence also and could grant adjournment for adducing witnesses, if any, on the next day, but that was not done. More so, since the petitioner husband has denied his marriage with the respondent wife, so, it appears, by that order, the right of the petitioner husband has been affected which ought to have considered by the Learned Court below. So for proper adjudication of the proceeding before the Learned Court below, it appears that one more opportunity be given to the petitioner husband of this Revision Petition to adduce evidence. The respondent wife inspite of serving of notice did not appear the Court. So, considering the facts and circumstances, this Court feels it prudent to set aside the



said order dated 22.09.2023 passed by the Learned Court below.

**12.** Accordingly, the order dated 22.09.2023 passed by the Learned Court below is hereby set aside.

**13.** In the result, the Revision Petition filed by the petitioner husband is hereby allowed subject to payment of cost of Rs. 5000/- by the petitioner husband to the respondent wife. The petitioner husband shall appear before the Learned Court below on 16.01.2024 and shall deposit the cost amount. Thereafter, the Learned Court shall make endeavor to dispose of the case latest by 31.01.2024, by giving one last scope to the petitioner husband to adduce his evidence, if any, on that day (16.01.2024) or any other day. On deposit of amount by the petitioner husband the Learned Court below shall accordingly disburse the amount to the respondent wife after obtaining proper receipt.

**14.** With these observations the Revision Petition is disposed of.

**15.** A copy of this order be communicated to the Learned Court below immediately along with the LCR.

**JUDGE**

**MOUMITA  
DATTA**  
*Purnita*

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MOUMITA DATTA  
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