

**HIGH COURT OF TRIPURA
AGARTALA
CRL.REV.P NO.44 OF 2023**

Sri Swapan Chakma

.....**Petitioner(s)**

Versus

The State of Tripura and ors.

.....**Respondent(s)**

For the Petitioner(s) : Ms. R. Guha, Advocate.
Ms. S. Nath, Advocate.

For the Respondent(s) : Mr. S. Ghosh, Addl.P.P.
Mr. S. Datta, Advocate.
Mr. S. Banik, Advocate.

Date of hearing and delivery of
Judgment & Order : 28.06.2024

Whether fit for reporting : YES/NO.

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
J U D G M E N T & O R D E R (O R A L)**

This present criminal revision petitioner has been filed under Section 397 of the Code of Criminal Procedure, 1973 by the petitioner herein against the impugned Order passed on 17.12.2022 by the learned Court of Family Judge, Agartala, West Tripura in connection with Case No.CRL.Misc.171 of 2021.

2. Heard Ms. R. Guha, learned counsel assisted by Ms. S. Nath, learned counsel appearing for the petitioner as well as Mr.S. Ghosh, learned Addl. P.P., appearing for the State-respondent as

well as Mr.S. Datta learned counsel and Mr. S. Banik, learned counsel appearing for the private respondent.

3. Ms. Guha, learned counsel appearing for the petitioner-husband submits that the Court below while awarding the maintenance allowance directed the petitioner-husband to pay Rs. 25,000/- per month to the respondent-wife w.e.f. 15.03.2021. The petitioner is aggrieved by the order of the Court below to pay the said amount w.e.f.15.03.2021, as because, the amount has become quite a lump sum and due to the economic hardship and burden faced by the petitioner-husband, he is not able to pay the same. Further, the portion of the Order has been passed without the opposite party seeking any interim prayer. The learned Court below also failed to appreciate the fact that respondent No.2 is still staying in the house of the petitioner.

To support her argument, learned counsel appearing for the petitioner referred to Para-25 of the Judgment of the Hon'ble Supreme Court reported in **AIR 1975 SC 915** titled as **Ramchandra Keshab Adke(Dead) by Lrs. Vs. Govind Joti Chavare and ors.**, which is produced herein:-

"where indeed, the whole aim and ob- ject of the legislature would be plainly defeated if the command to do the thing in a particular manner did not imply a prohibition to do it in any other. Maxwell's Interpretation of Statutes, 11th Edn.pp.362-363. "The rule will be attracted with full force in the present case, because non- verification of the surrender in the requisite manner would frustrate the very purpose of this provision. Intention of the legislature to pro- hibit the verification of the surrender in a man- ner other than the one prescribed is implied in these provisions. Failure to comply with these mandatory provisions, therefore had vitiated the surrender and rendered it non est for the pur- pose of S. 5 (3) (b). "

To strengthen his argument, learned counsel also referred to another Judgment of the Hon'ble Supreme Court reported in **AIR 1952 SC 16** titled as **Commissioner of Police, Bombay Vs. Gordhandas Bhanji**.

4. On the other hand, Mr. S. Banik, learned counsel appearing for the respondent submits that the Judgment and Order as passed by the Court below is just and proper. To support his argument, he referred to **Para-111** of the Hon'ble Supreme Court reported in **(2021) 2 SCC 324** titled as **Rajnish Vs. Neha and anr**. The same is produced here-in-under:-

"The rationale of granting maintenance from the date of application to the date of finds its roots in the object of enacting maintenance legislations, so as to enable wife to overcome the financial crunch which occurs on separation from husband. Financial constraints of a dependent spouse hamper their capacity be effectively represented before the court. In order to prevent a dependant from being reduced to destitution, it is necessary that maintenance is awarded from the date on which the application for maintenance is filed before the court concerned."

5. Heard and perused the evidence on record.

6. Once a litigant comes to a Court with her prayer for justice, it is the prerogative of the Court to pass an appropriate Order for the sake of Justice. The learned Court below directed the impugned maintenance allowance in the interest of the party concerned and this Court in terms of the factual aspect of this case is of the opinion that respondent No.2 is entitled to the said maintenance allowance. Once it falls due, any maintenance or compensation granted by the Court is to be paid from the period on which it is due. Further, the Judgments as referred by the learned

counsel appearing for the petitioner are not relevant to the facts of the case.

7. In the midst of the argument, learned counsel appearing for the petitioner submitted before this Court that in the earlier round of litigation in Criminal Petition No.26 of 2022, which was decided by this Court between the parties herein, the wife respondent as petitioner herein approached the Hon'ble Supreme Court and the Hon'ble Apex Court has set aside the order of the this Court by Order dated 04.01.2023. But on perusal of the said order of the Hon'ble Apex Court, passed in **Special Leave Petition(Criminal) Dairy No(s). 35270/2022**, preferred by petitioner Sri Swapan Chakma, the same reveals thus:-

*"Having heard learned counsel for the petitioner and having perused the material placed on record, though, we are not persuaded to consider interference in this matter against the order passed by the High Court declining the prayer of the petitioner for quashing of the criminal proceedings but, in the circumstances, we deem it appropriate to observe that the observations occurring in the order impugned by the High Court shall be read as confined to its consideration of the prayer for quashing and not beyond. In other words, such observations may not be taken decisive by the Trial Court while proceeding further with the matter and deciding the same finally.
Subject to the observations foregoing, this petition stands dismissed.
Pending applications also stands disposed of.*

8. Hence in terms of the above facts and circumstances, this present petition stands dismissed. Stay if any stands vacated. Pending application(s), if any also stands closed.

JUDGE

suhanjit

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SUHANJIT
SINGHA

Digitally signed by
RAJKUMAR
SUHANJIT SINGHA
Date: 2024.07.02
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