

GAHC010129462025



2026:GAU-AS:4232

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

Case No. : Crl.Rev.P./227/2025

GOLAP HUSSAIN
SON OF LATE TAIZUDDIN SARKAR
VILL- SALEKURA
P.S. BARPETA
DIST. BARPETA, ASSAM
PIN-781314
M. NO. 7002530938

VERSUS

ROUSHANARA BEGUM AND ANR
W/O GOLAP HUSSAIN
(D/O LATE ABDUL MANNAF)
VILL-BHELLA, BANBORIA P.S. BARPETA, DIST. BARPETA, ASSAM, PIN-
781309

2:THE STATE OF ASSAM
REPRESENTED BY THE PP
ASSA

Advocate for the Petitioner : MR K BHUYAN, MR. M U E BHUYAN,R K TALUKDAR

Advocate for the Respondent : PP, ASSAM, MR R ISLAM ((LEGAL AID SERVICE),MR R. ISLAM

BEFORE

HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

HON'BLE MR. JUSTICE PRANJAL DAS

Advocate for the Petitioner : Shri K. Bhuyan
Advocate for the Respondents: Shri R. Islam, Legal Aid Counsel, R.1
Ms. A. Begum, APP

Date of hearing : **23.03.2026**

Date of Judgment : **23.03.2026**

Judgment & Order

(S.K. Medhi, J.)

The instant revision petition has been filed against a final order dated 30.05.2025 passed by the learned Family Court, Barpeta in a proceeding under Section 125 CrPC [corresponding to Section 144 BNSS, 2023] registered as F.C. (Cri.) Case No. 509/2022. By the aforesaid order, maintenance @ Rs.7,000/- to the second party - wife and an equivalent amount for the daughter have been granted.

2. The facts which have revealed from the case records are that that the second party - wife had instituted the aforesaid proceeding by filing a complaint before the learned Family Court, Barpeta. It was averred that the second party was forced to leave the matrimonial house on 23.03.2022 along with her daughter due to torture and was staying at her parental house. It is also averred that the only daughter was attending the school and there was no sufficient means to maintain themselves and accordingly, the prayer was made for grant of maintenance allowance @ Rs.10,000/- each to the complainant as well as to the daughter. The complaint was opposed by filing a written statement.

3. The complainant - first party had adduced evidence through two witnesses, namely herself and her brother. In their testimonies, it was

deposed that on 23.03.2022, the second party drove her out from the matrimonial house with her minor child. It has been further deposed that the second party was making unlawful demands of land and used to torture her for not fulfilling the demands and such torture had aggravated day by day. It has also been stated that the second party was an Advocate practicing in the Barpeta District Court and was earning about Rs.50,000/- per month and also has land and property. In the cross-examination, however, she had revealed that she was working as a volunteer in the Tally Education Program and was earning Rs.2,000/- per month and this fact was not disclosed in the Assets & Liability statement. She had also stated that the second party was appointed as a Teacher in the Ratnadeep Junior College, Kahibari, which is a venture school and the daughter was admitted to the Jururam Pathak Girls High School, Barpeta.

4. The PW2, who is the brother of the first party, had supported the case by reiterating that there were unlawful demands from the second party and on many occasions, the first party (his sister), was driven out in which he had intervened. He had also stated that the second party continued to torture his sister / first party and his sister had reported that the second party had threatened to kill her and eventually, she was driven out from the matrimonial house along with the minor child. In the cross-examination, however he has stated that he did not know the reason as to why on 13.04.2022, the first party had returned back to her parental house.

5. The petitioner - second party had also adduced evidence through two nos. of witnesses, namely himself and a friend of his. In his evidence, the petitioner had denied the allegation of committing any torture upon the first party and had also highlighted the aspect that he was working as a

tutor and his services were not provincialised. He has also stated that the first party was working as a Tally Teacher and was getting monthly remuneration. In the cross-examination, however, he has admitted that he was a lawyer in the Barpeta District Bar which he had joined in the year 2008. He had also admitted that he had joined Ratnadeep Junior College as a teacher of Education; however, his post was still unsanctioned. The DW2, who was an advocate practicing in the Barpeta Bar, had disclosed in his cross-examination that the first party had been practicing in the Barpeta District Court for the last 14-15 years. He had also stated that he was earning Rs.50,000/- per month as an Advocate and accordingly, the second party may also be earning an equal amount.

6. The learned Family Court, after considering the facts and circumstances, the evidence on record and also the affidavit of Assets and Liabilities, as filed by the respective parties in compliance of the direction of the Hon'ble Supreme Court in the case of ***Rajneesh Vs. Neha & Ors.*** reported in ***(2021) 2 SCC 324*** has passed the impugned judgement which is the subject matter of challenge.

7. We have heard Shri K. Bhuyan, learned counsel for the petitioner. We have also heard Shri R. Islam, learned Legal Aid Counsel appearing for the respondent no. 1 and Ms. A. Begum, learned APP, Assam.

8. Shri Bhuyan, learned counsel for the petitioner, has submitted that there was no discernible reason which was established in the proceeding for which the first party had left the matrimonial house. He hastened to submit that the first party had left the matrimonial house on her own volition and therefore, she is not entitled to any maintenance. He has also submitted that the aspect that the first party was earning from her

employment as Tally Educator was not disclosed in the statement of Assets and Liabilities and therefore, she is not entitled to any relief. He has also submitted that PW2, her own brother, in his cross-examination had stated that he was not aware of the reasons as to why his sister had come back to the parental house. He has further submitted that in absence of any reason for leaving the matrimonial house, a wife is not entitled to seek any maintenance under section 125 of the CrPC. He has, however, submitted that so far as the order of the learned Family Court providing maintenance to the daughter, he is not opposed to the same and is ready and willing to pay.

9. In support of his submissions, the Shri Bhuyan, learned counsel for the petitioner has relied upon the judgment of ***Deb Narayan Halder Vs. Anushree Halder (Smt)*** reported in ***(2003) 11 SCC 303*** in which the Hon'ble Supreme Court has laid down that leaving the matrimonial house without any reason would be a good cause not to grant maintenance in such case.

10. *Per contra*, Shri R. Islam, learned Legal Aid Counsel for the respondent no. 1 has submitted that the impugned judgment is based on relevant factors and the materials on record and the amount granted is reasonable which would not require any interference. He has submitted that the projection made in the present revision petition is absolutely incorrect inasmuch as, there are sufficient materials available in the records to grant maintenance to the First Party. He has drawn the attention of this Court to the complaint wherein a specific statement has been made that there were tortures inflicted forcing the First Party to leave the matrimonial house along with the daughter.

11. The learned Legal Aid Counsel for the respondent no. 1 has also stated that there were no means of living for the respondent and therefore, the claim for maintenance was reasonable and just which was duly considered by the learned Family Court. He has submitted that while the claim was made @ Rs.10,000/- per month for both the First Party and the daughter, the learned Family Court, upon consideration of the facts and circumstances had granted maintenance @ Rs.7,000/- per month each which is absolutely reasonable. He has drawn the attention of this Court to the chief examination of PW2 wherein the aspect that the First Party was consequently tortured has been specifically stated. He accordingly submits that only because of the statement made by the PW2 in his cross-examination that he did not know the exact reason why the First Party had returned on 23.03.2022 will not have any relevance. He has also submitted that in the cross-examination of the Second Party, it was disclosed that he had performed a second marriage in the year 2014 and therefore, the allegation that there was none to look after him for which he had conducted such marriage becomes wholly inconsistent. He has also submitted that the father of the First Party has already expired and she has been staying with her widowed mother without any source of living and the amount which she is getting as a Tally Educator is a meagre amount of Rs.2,000/- which is wholly not sufficient. He has also submitted that the daughter presently is at Class 9 and there is a requirement for incurring considerable expenditure for her education.

12. In support of his submission, the Shri Islam, learned Legal Aid Counsel for the respondent no. 1 has relied upon the judgment of ***Chaturbhuj Vs. Sita Bai*** reported in ***(2008) 2 SCC 316*** wherein, the

Hon'ble Supreme Court has made the following observations:

”6. The object of the maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy by compelling those who can provide support to those who are unable to support themselves and who have a moral claim to support. The phrase "unable to maintain herself" in the instant case would mean that means available to the deserted wife while she was living with her husband and would not take within itself the efforts made by the wife after desertion to survive somehow. Section 125 CrPC is a measure of social justice and is specially enacted to protect women and children and as noted by this Court in Captain Ramesh Chander Kaushal v. Veena Kaushal falls within constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution of India. It is meant to achieve a social purpose. The object is to prevent vagrancy and destitution. It provides a speedy remedy for the supply of food, clothing and shelter to the deserted wife. It gives effect to fundamental rights and natural duties of a man to maintain his wife, children and parents when they are unable to maintain themselves. The aforesaid position was highlighted in Savitaben Somabhai Bhatiya v. State of Gujarat.”

13. Before concluding, Shri Islam, learned Legal Aid Counsel has also informed this Court that in spite of the judgment being pronounced on 30.05.2025, till date, no maintenance whatsoever has been paid for which even warrant has been issued against the petitioner. He has also submitted that there is no order of any stay passed by this Court and therefore, the conduct of the petitioner itself is questionable.

14. Shri Bhuyan, learned counsel for the petitioner, in his rejoinder, has submitted that if the allegations of torture were actually correct, the First Party ought to have lodged a complaint or police case under Section 498-A of the Indian Penal Code which has not been done and the same establishes that the allegations are not correct. He has reiterated that only because of the pendency of this case, the maintenance has not been paid.

15. The judgment dated 30.05.2025, which is the subject matter of challenge has been passed in a proceeding under Section 125 of the CrPC, the relevant part of which reads as follows:

“125. Order for maintenance of wives, children and parents.

(1) If any person having sufficient means neglects or refuses to maintain –

(a) his wife, unable to maintain herself, or

(b) his legitimate or illegitimate minor child, whether married or not, unable to maintain itself, or

(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself, or

(d) his father or mother, unable to maintain himself or herself, a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or such child, father or mother, at such monthly rate, as such Magistrate thinks fit, and to pay the same to such person as the Magistrate may from time to

time direct: ..."

15. It is trite that a proceeding under Section 125 of the CrPC is summary in nature and orders are passed on the basis of the materials on record with the only satisfaction to be derived is that the party approaching this Court makes out a case that the opposite party having sufficient means neglects or refuses to maintain. In the instant case, the first party - wife in her complaint had made specific allegations of torture and even an attempt to kill for which she had left her matrimonial house on 23.03.2022. There are also materials on record to show that on earlier occasions, she had to leave the matrimonial house for which "*Me!*" had to be convened. The aspect that the second party - petitioner is a teacher (though in a non-provincialized post) and also practices law are not disputed. The only dispute is the amount which the second party is earning. The second party - petitioner has also made certain allegations that the first party was herself earning by working as a Tally Educator and this fact has not been disclosed in the Statement of Assets and Liabilities.

16. The Hon'ble Supreme Court in the aforesaid case of ***Chaturbhuj*** (supra) has clearly laid down that the objective of the maintenance proceeding is only to provide support to those who are unable to support themselves and have a moral claim to support. The Hon'ble Supreme Court has also taken into account the constitutional of ingrained in Article 15(3), reinforced by Article 39 of the Constitution of India and has also observed that there is a social purpose to be achieved by the state statute.

17. In the present case, the matrimonial relationship is not disputed and it is also not disputed that there is a school-going daughter of the parties and the claim of maintenance was @ Rs.10,000/- each.

18. The learned Family Court, while coming to the conclusion, had taken into consideration the relevant materials, namely the complaint, the evidence adduced by the 2 PWs, including the brother of the first party and also the objection read with the evidence of the two witnesses of the second party. In our considered opinion, the conclusion arrived at by the learned Family Court appears to be based on the relevant materials on record and cannot, by any stretch of imagination, be said to be perverse or not supported by the materials on record. It is trite that while exercising the powers of revision of this Court, the scope of interference is limited and only on limited grounds, namely, acting without jurisdiction or in excess of jurisdiction or the impugned order being based on irrelevant or extraneous materials, such interference may be called for. However, in the instant case, the order of maintenance, that too of Rs.7,000/- per month each, appears to be just and reasonable.

19. We are also of the opinion that the first party respondent has fulfilled the requirements of Section 125 of the CrPC to claim maintenance both for herself and for minor daughter as she has established a *prima facie* case of negligence to maintain her and the daughter by the petitioner after she was forceful leave the matrimonial house on 23.04.2022. We are also of the opinion that though there is some controversy regarding the aspect that the first party respondent is also earning, the records would reveal that such earning is of Rs.2,000/- per month as honorarium for working as a Tally Educator which is meagre in the present context. We are also of the view that the amount of maintenance granted of Rs.7,000/- per month each to the respondent and the daughter is absolutely reasonable and rather on the lower side which does not call for any interference.

20. The present petition accordingly stands dismissed.

21. As we are informed that the petitioner has not paid the maintenance amount till date, we direct the petitioner to pay the same in terms of the order dated 30.05.2025 regularly and the arrears to be paid within a period of 45 days from today.

22. For the assistance rendered by Shri R. Islam, learned Legal Aid Counsel, we record our appreciation and he would be entitled to the prescribed fee.

JUDGE

JUDGE

Comparing Assistant