



Serial No.13
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

CrI. Rev. P. No. 1 of 2024

Date of Order: 11.02.2025

Shri. Goreth N. Marak
S/o.(L) Surang M. Sangma,
R/o. GAningre, Williamnagar,
P.O. & P.S. Williamnagar,
East Garo Hills District,
Meghalaya.

Vs. 1.Smti Wansayi D Shira
W/o. Shri. Goreth N. Marak,
R/o. Robagre, P.O. Araimile,
P.S. Tura, West Garo Hills District,
Meghalaya.

.....PETITIONER.

....RESPONDENT.

Coram:

Hon'ble Mr. Justice B. Bhattacharjee, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. A. G. Momin, Adv.

For the Respondent(s) : Ms. M. K. Sah, Adv.

ORAL:-

Heard Mr. A. G. Momin, learned Counsel appearing for the petitioner also Ms. M. K. Sah, learned Counsel appearing for the respondent.

By this application under Section 397 CrPC, the petitioner has challenged the impugned order dated 16-02-2024 passed in Misc. Cae No. 126/2021 by the Assistant Judge, District Council Court, Garo Hills Autonomous District Council Court, Tura by which the petitioner was



directed to pay an amount of Rs.18,000/- per month to the respondent herein and her children as maintenance allowance under Section 125 CrPC.

The learned Counsel for the petitioner has assailed the impugned order dated 16-02-2024 mainly on the ground of non-filing of affidavit of disclosure of assets and liabilities by the parties as mandated by the direction of the Apex Court in *Rajnish v. Neha*, (2021) 2 SCC 324, followed in *Aditi Alias Mithi v. Jitesh Sharma* (2023) SCC OnLine SC 1451. By placing reliance on the decision of *Aditi Alias Mithi (supra)*, it is submitted by the learned Counsel that the Trial Court could not have passed the impugned order without such affidavit and, hence, the impugned order is not tenable in the eye of law and is liable to be interfered with.

The learned Counsel for the respondent does not dispute the fact that no affidavit of disclosure of assets and liabilities was filed by the contesting parties before the Trial Court. However, the learned Counsel has contended that the opposite party belongs to the economically weaker section and is living below the poverty line and as per the decisions of the Apex Court in *Rajnish (supra)* and *Aditi Alias Mithi (supra)*, there is no requirement of filing of any such disclosure affidavit by the opposite party.

From the materials on record and the submissions made by the learned Counsels for the rival parties, it is evident that no affidavit of disclosure of assets and liabilities were filed by both the parties in terms of the judgments of the Apex Court. The mandate of law laid down in *Aditi Alias Mithi (supra)* case makes it clear that no Court can pass an order of maintenance, either interim or final, without there being any affidavit on record filed by the parties. Moreover, there is also no order by the Trial Court dispensing with the requirement of filing of affidavit of disclosure of assets and liabilities by the opposite party herein on the ground that the



opposite party belong to the economically weaker sections or is living below the poverty line.

Since, it is not disputed in the present case that the impugned order dated 16-02-2024 was passed without there being any affidavit of disclosure of assets and liabilities by the parties, the same is hereby set aside and the matter is remitted back to the Trial Court for fresh consideration after compliance of legal requirement mandated by the decisions of the Apex Court in the cases of *Rajnish (supra)* and *Aditi Alias Mithi (supra)* by the parties. As the instant matter pertains to payment of maintenance allowance, an endeavour shall be made by the Trial Court to dispose of the matter at the earliest in accordance with law.

With the above, this Criminal Revision Petition stands disposed of.

Judge

Meghalaya
11.02.2025
“Biswarup PS”