

05.07.2024

For Orders

**ORDERS ON APPLICATION FILED BY THE
PETITIONER U/Sec.127 of Cr.P.C.**

That the petitioner has filed the application U/Sec.127 of Cr.P.C. seeking enhancement of interim maintenance.

2. In an application it is stated that, this court has reduced the earlier order of maintenance passed by Hon'ble III Addl. Family Court, Bengaluru in M.C.No.3245/2012. The respondent not paid arrears of maintenance and he is avoiding the payment of arrears of grant. If the application is not allowed the petitioner will be put into irreparable hardship and loss. Hence, prays to allow the application.

3. On the other hand, respondent filed objection and contended that, the petitioner

is seeking enhancement of maintenance by filing the present application, since there is no change of circumstances and there is no grounds urged by the petitioner to enhance maintenance. The petitioner never challenged the interim order passed by this court. The respondent paying the interim maintenance as per the order of this court. Hence, prays to reject the application.

4. Heard by petitioner & respondent counsel.

5. The following points are arises for my consideration:

1. Whether the petitioner has made sufficient grounds to enhance the interim maintenance ?

2. What order ?

6. My answer to the above points are as follows:

Point No.1:- **In the Negative.**

Point No.2:- As per final order, for the following:

REASONS

7. **Point No.1:-** The petitioner has filed petition under Sec.125 of Cr.P.C.,

against the respondent and filed application for grant of interim maintenance of Rs.48,000/- per month to the petitioner and said application was partly allowed and directed the respondent to pay monthly interim monetary relief of Rs.3,000/- to the petitioner from the date of the application.

8. The contention of the petitioner is that, the interim relief granted by this court is lessor than Hon'ble Family Court, Bengaluru hence, prays to enhance the interim maintenance. On the other hand, the counsel for respondent contended that, the petitioner not produced any relevant documents to enhance the interim maintenance and the petitioner not challenged the said order. Hence, prays to reject the application.

9. I have carefully gone through the records the petitioner has not filed any documents to show that the respondent is earnings more than Rs.4,00,000/- to 5,00,000/- from goods, vehicles and monthly rental income. Hence, without proof of documents the contention of the

petitioner is not acceptable and moreover, the petitioner herself admitting that, the Hon'ble Family Court also directed the respondent to pay maintenance amount of Rs.5,000/- to the petitioner and the petitioner had already filed Execution Case against respondent before the Hon'ble III Addl. Family Court, Bengaluru. By considering the facts and circumstances of the case and present daily life needs, this Court directed the respondent to pay Rs.3,000/- as interim relief. Hence, the question of enhancement of maintenance without sufficient material of income of respondent does not arise at all. Accordingly, I answer point No.1 in the **Negative.**

10. **Point No.2:-** As already discussed above in point No.1, I proceed to pass the following:

ORDER

The application filed by the petitioner U/Sec.127 of Cr.P.C. is hereby rejected.

For Cross of PW-1.

Call on 24.07.2024.

**Prl. Civil Judge & J.M.F.C.,
Magadi.**