

**IN THE COURT OF JUDICIAL MAGISTRATE OF 1ST CLASS,
PATHAPATNAM.**

Present: M. ROSHINI
Judicial Magistrate of 1st class,
Pathapatnam.

Monday, the 05th Day of May, 2025

MC 10/2022

BETWEEN:

- 1) Komarathi Gayatri, W/o Adinarayana, aged 30 years, House hold duties, R/o Kittalapadu village, Saravakota Mandal, Srikakulam District.
- 2) Komarathi Suresh, S/o Adinarayana, aged 10 years, Being Minor represented by his mother ie. natural guardian ie. Komarathi Gayatri.

..... Petitioners

AND:

Komarathi Adinarayana, S/o Neelayya, aged 32 years, R/o Komarathi village, Narasannapeta Mandal, Srikakulam District.

..... Respondent

This is the petition coming before me for final hearing on 15.04.2025 in the presence of **Sri. Metta Rama Rao**, Advocate for petitioner and the Respondent set exparte, and having heard, this court on this day made the following:

ORDER

1. This is the petition filed by the Petitioner under Section 125 of Code of Criminal Procedure, 1973 praying this court to direct the Respondent to pay monthly maintenance of Rs.5,000 /- to the 1st petitioner and Rs.3,000/- to the 2nd petitioner from the date of filing of this petition.

2. Notice issued to the Respondent. Other side set exparte.

On 30.08.2024 this court set the Respondent as Exparte and the docket order on that day is 'Petitioner called absent and petition filed and allowed. Notice returned with an endorsement that addressee refused. Considers that refusal as deemed to be served. Respondent called absent and no representation made. Hence, Respondent set exparte.'

3. Heard Petitioner Side.

4. **The brief contentions of the petitioner are:**

- a) That the Respondent married to the Petitioner No.1 about 11 years ago at Ramalaya Temple, Aludu village, as per Hindu customs and rites. At the time of marriage, the parents of Petitioner No.1 presented Rs.50,000/-, two thulas to gold ornaments, Sari Samanlu worth of Rs. 50,000/- presented to the Respondent. Both lead their life for 7 years, after that the Respondent used to harass the Petitioner No.1 without providing any food or clothes to her. Even after the birth of Petitioner No.2, the Respondent did not change his attitude and continued the harassment and beat her and finally necked out her from the matrimonial home about 4 years ago. Due to which the Petitioner No.1 came to her parents house and with the help of her parents placed the matter before elders but the Respondent did not hear the words of elders.
- b) The Petitioner No.1 further submitted that, the petitioner No.1 has no means to maintain herself and her son/ Petitioner No.2. from the date of marriage, he used to depend on her husband/ Respondent to maintain herself. The petitioner No.1 has no source of income. At present the Petitioner No.2 is studying in 5th class.
- c) She further submitted that the Respondent has one slab house and he is working as a mason and getting Rs.700/- per day and from all the

sources, he is getting Rs.4,00,000/- per annum. He has a capacity to maintain the petitioner. though he has means to maintain petitioner, he refused to do so and neglected them.

- d) Hence, filed this petition praying this court to grant maintenance of Rs.5,000 /- to the 1st petitioner and Rs.3,000/- to the 2nd petitioner from the date of filing of this petition.

Hence filed this petition.

5. On hearing the submissions made by the Petitioner, the points arise for consideration are:

- i. **whether the Respondent has sufficient means to maintain the petitioner?**
- ii. **Whether the Respondent neglected to maintain the petitioner?**
- iii. **If, so whether the Petitioner is entitled to maintenance from the Respondent, as prayed for?**

6. With regard to point for consideration (i), To prove the contentions of Petitioner, she filed her affidavit in-lieu-of Examination-in-Chief. She examined as PW1. In her Examination-in-Chief she reiterated all the contents of her petition. In order to avoid the duplication, I avoid it to rewrite the same. To disprove the contentions of Petitioner, the Respondent neither appeared, filed counter nor utilized the right to cross examine her. No contrary evidence was placed on the record to support the Respondent. The petitioner clearly deposed that the Respondent is working as a manson and is earning Rs.700 /- per day and from all other sources he will get Rs.4,00,000/- per year. To substantiate the sufficient means of Respondent no documentary evidence was placed before this court by the petitioner. However, it is

reasonable to believe that as the Respondent's job is an unorganized one and usually do manson works it is not possible to file salary slip or produce salary particulars, however as far as the other source of income is concerned, the contentions made by the petitioner No.1 seems vague. So, this court considers and believes that the income of the Respondent as Rs. 700/- per day. To disprove the contentions of the Petitioner the Respondent neither appeared nor produced any evidence. To prove the existence of marriage in between them Ex. P1/ Marriage invitation card was marked as exhibit. Which is sufficient to believe that there is an existence of marriage in between them. Thus, the evidence of PW1 stands unrebutted. In view of the same, this court believes that the Respondent has means to maintain the petitioner. Accordingly, the point is answered.

7. With regard to point for consideration (ii), the Petitioner No.1 as PW1 deposed that she is the legally wedded wife of the Respondent. And she further deposed that she has no means to maintain herself and Petitioner No.2. To disprove the contentions of the Petitioner the Respondent neither appeared nor produced any evidence. hence, with regard to means of Petitioner No.1, this court believes that she has no means to maintain herself and the Petitioner No.2. Accordingly, the point is answered.

8. With regard to Point for consideration (iii), in the light of discussion in Point (i) and Point (ii), and taking into consideration of the income stated by the petitioner No.1 earning by the Respondent, this court is of opinion that the Petitioner No.1 proved that though the Respondent has means to maintain the Petitioner No.1 and petitioner No.2 and neglected to do so. Accordingly the point is answered.

9. Considering the above foregoing reasons, this court believes that the petitioners are entitled to get maintenance from the Respondent and this court orders the Respondent to pay Rs. 3,500/- to the 1st Petitioner and Rs.3,000/-

Date: 06.05.2025

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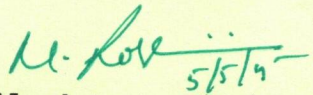
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to the 2nd Petitioner on or before 5th date of every month, from the date of this order.

In the result, the petition is allowed by ordering the Respondent to pay Rs. 3,500/- to the 1st Petitioner and Rs.3,000/- to the 2nd Petitioner on or before 5th date of every month, from the date of this order.

Typed by the Typist on my dictation and pronounced and corrected by me in the open court on the 5th Day of May, 2025.

Date: 05.05.2025


Judicial Magistrate of 1st class,
Pathapatnam.

APPENDIX OF EVIDENCE

Witness examined

For Petitioner:

PW1 : Komarthi Gayathri

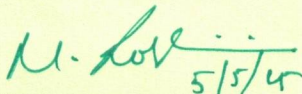
For Respondent:

-None-

Documents Marked for petitioner:

Ex. P1: Marriage invitation card

Date: 05.05.2025


Judicial Magistrate of 1st class,
Pathapatnam.