

**IN THE COURT OF ADDITIONAL CHIEF JUDICIAL
MAGISTRATE :: DHEMAJI**

MISC CASE NO. 84/2022

U/S. 127 Cr.P.C.

Smti Junmoni Hazarika.....First Party

-Vs- Party

Sri Ranjit Hazarika.....Second Party

PRESENT: SMTI JUMA SINHA, AJS

Additional Chief Judicial Magistrate,
Dhemaji.

COUNSELS:

For the First Party: - Sri A. Gogoi, Ld. Counsel.

For the Second Party: - Sri J. Dutta, Ld. Counsel.

Evidence recorded on: 20.05.2021 & 30.05.2023.

Argument heard on: 30.05.2023.

Final order delivered on: 31.05.2023.

FINAL ORDER

- 1. THIS MISC CASE** arose out of a petition U/s. 127 Cr.P.C. filed by 1st Party Smti Junmoni Hazarika against 2nd Party Sri Ranjit Hazarika claiming enhanced monthly maintenance @ Rs. 20,000/- per month for herself and two daughters.

2. **FIRST PARTY'S STORY** as unfolded by the Misc. Petition is that First Party filed maintenance case on 22.06.2020 vide Misc. Case No. 12/2020 where she was awarded monthly maintenance of Rs. 3,000/- per month for herself and her two daughters. Presently, her elder daughter is studying in Class IX and younger daughter is in Class VII and the maintenance amount granted is not sufficient for her sustenance. With the rise in prices of essential commodities, educational expenses and others it is not possible to sustain the amount awarded. That 2nd party is mason and earns about Rs. 1 lakh per month. Hence this case.



3. **THE SECOND PARTY** in his written statement denied all the allegations against him and stated that he is not a mason but mason helper with an income of Rs. 400/- only and that income is not on daily basis as he gets paid when he works. That the amount asked by the 1st party for maintenance is not possible for him to pay with that low income.

4. **POINTS FOR DETERMINATION**

Whether 1st Party is entitled to enhanced monthly maintenance for herself and her daughters as prayed for?

[Handwritten signature]
Asst. Chief Justice
Bhopal

5. DISCUSSION, DECISIONS AND REASONS THEREOF:

In this regard **1st Party** as **PW1** deposed that that she is the 1st party and the 2nd party is her husband. She is receiving total monthly maintenance of Rs. 3000/- for herself and her two unmarried daughters in Misc Case No. 12/2020. Presently, her elder daughter is studying in Class X and younger daughter is in Class VII. The maintenance amount granted is not sufficient for rising educational and other expenses of herself and her daughters. Her husband is mason and takes contract work for construction. In **cross-examination** she denied that her husband is helper with mason. She has not submitted any document or brought any witness relating to work of her husband. She further denied that her husband is not able to pay enhanced maintenance. Her daughters are studying in government school and they are provided free books.

2nd Party as DW1 deposed that 1st party is his wife. He works as day labour and earns about Rs. 400/- day when he gets work. They do not get work regularly. His daughters often visit him and he gives them clothes and other items. In **cross-examination** he denied that mason gets Rs. 1000/- daily and helper gets Rs. 500/- daily. One of his daughters is reading in Class X and another in Class VIII. There are arrears pending by him in maintenance case. **DW2, an**



21/05/23
Addl. Chief
Dharmapuri

independent witness, deposed that he knows both the parties. 2nd party is his co-villager. 2nd party works with him as day labour and earns about Rs. 400 daily when he gets work. They do not get work regularly. In **cross-examination** he denied 2nd Party is mason and he works under him as labour. He further denied that he deposed falsely against 1st party.

From the above evidence it is found that admittedly 1st Party and her daughters are receiving Rs.3000/- monthly maintenance and there is also no denial to the fact that one daughter is presently studying in class X and another in class VII. The original maintenance was ordered in 2021 as revealed from that case lying with this court and accordingly it is a fact well known that there has been rise in price of everything including essential amenities as well as educational expenses. Only because the children are studying in government school, does not mean that there is no other expense towards their education to be borne by the guardians. Educational and other basic needs of the children have enhanced with time. Though the parties are at variance with regard to the source and level of income of 2nd Party but this cannot absolve the liability of 2nd Party as a husband and father to provide for the changed basic necessities of his wife and children.

Accordingly in view of rising price index, increasing price of essential commodities and growing



8/10/23
Addl. Ch. J. Magistrate
Muzaffargarh

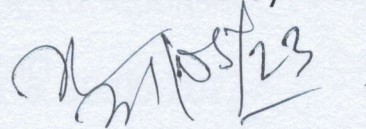
needs of two female children and a single lady, I am of the view that 1st Party is entitled to enhanced maintenance for herself and her daughters.

6. After considering the change in situation of the parties and also of the increase in financial need, increasing price index of essential commodities, the requirements of a single woman and two growing children, 2nd Party is directed to pay enhanced monthly maintenance @ Rs. 2000/- to the 1st Party and @ Rs.1500/- for each of the two daughters, from the date of this order.

Furnish a free copy of this Judgment and order to the first party forthwith.

Judgment is given under my hand and seal on this the 31st day of May, 2023.

Dictated and Corrected by me:



Juma Sinha
Addl. Chief Judicial Magistrate,
Dhemaji.



APPENDIX

FIRST PARTY WITNESSES:

PW1 – Smti Junmoni Hazarika

EXHIBITS OF FIRST PARTY

Nil

SECOND PARTY WITNESSES:

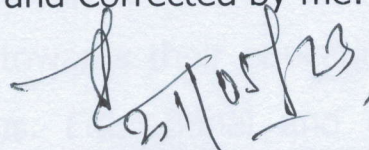
DW1 – Sri Ranjit Hazarika

DW2- Sri Madhab Borah

EXHIBITS OF SECOND PARTY

Nil

Dictated and Corrected by me:



Juma Sinha
Addl. Chief Judicial Magistrate,
Dhemaji.