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IN THE COURT OF THE I-ADDITIONAL JUDICIAL MAGISTRATE OF I
CLASS :: GIDDALUR

Present : Sri. K.Bharath Chandra,
I-Additional Judicial Magistrate of I Class, Giddalur.

Thursday, this the 06th day of August, 2026.

MC.No. 35 of 2022

Shaik Rabiya, W/o Shaik Neerukattu Kasim Vali, D/o Mohamad Shafi, aged about 27 years, Housewife, Resident of 7-80A, Thurimella Village, Cumbum Mandal, Prakasam District, now residing at her parents house at Anumalaveedu Village, Racherla Mandal, Prakasam District.

... Petitioner

Vs.

Shaik Neerukattu Kasim Vali, S/o Mastan Vali, aged about 30 years, Resident of 7-80A, Thurimella Village, Cumbum Mandal, Prakasam District.

...Respondent

This Petition has come up on 04-08-2026 for final hearing before me in the presence of Smt N.Ahalya, learned counsel for Petitioner and of Sri Shaik Yasin Basha, Sri Shaik Fazil and Sri Shaik Adil, learned counsel for Respondent, the matter having stood over for consideration till this day, this Court made the following:-

// ORDER //

1. This petition is filed by the petitioner under Section 125 of the Cr.P.C., seeking monthly maintenance of Rs. 20,000/- for herself, from the date of filing of the petition and for costs.

2. Brief Averments of the Petition

The marriage between the petitioner and the respondent was solemnized according to Muslim customs and rites. At the time of marriage, the petitioner's parents allegedly paid Rs.10,00,000/- in cash as dowry, presented 10 tulas of gold ornaments to the respondent, and gifted household articles worth about Rs.1,00,000/-. After the marriage was consummated, the petitioner joined the respondent at the matrimonial home, where they lived happily only for about one month. Thereafter, the respondent, along with his mother and sisters, allegedly subjected the petitioner to physical and mental cruelty by demanding additional dowry of Rs.5,00,000/- or one acre of agricultural land from her parents. It is further alleged that the respondent was addicted to alcohol, frequently assaulted the petitioner in a drunken state, and that his mother threatened to perform a second marriage for the respondent if the additional dowry was not paid. Though the petitioner tolerated the harassment in the hope of preserving the marital relationship, the respondent and his family continued to ill-treat her, neglected to provide her with proper food and clothing, and ultimately drove her out of the matrimonial home. Despite the intervention of elders, the disputes could not be resolved. Since then, the petitioner has been residing with her parents without any independent source of income and is unable to maintain herself. It is further averred that the respondent owns Ac. 10.00 cents of agricultural land at Thurimella Village, valued at about Rs.50,00,000/-, besides three house plots at Hyderabad worth

about Rs.20,00,000/-, and thus has sufficient means and financial capacity to maintain the petitioner. Despite possessing sufficient income and properties, the respondent has allegedly neglected and refused to provide any maintenance. Hence, the petitioner seeks an order directing the respondent to pay monthly maintenance of Rs.20,000/-.

3. The respondent filed a counter admitting the marital relationship but denying all the allegations of dowry demand, cruelty, harassment, neglect, and ill-treatment made by the petitioner. According to the respondent, immediately after the marriage the petitioner joined him at the matrimonial home, but from the very beginning she was unwilling to lead marital life, frequently picked up quarrels over trivial issues, abused the respondent and his family members in filthy language, and even assaulted the respondent with household articles. It is his specific case that when questioned about her conduct, the petitioner expressed that she had no interest in continuing the marriage and had married him only due to pressure from her parents. The respondent further contends that the petitioner voluntarily left the matrimonial home within one month of the marriage without informing him or his family members and subsequently lodged a false criminal complaint under Section 498-A IPC against him and his family members, resulting in the registration of a criminal case. It is further averred that the respondent made several sincere attempts through elders and mediators to reconcile and resume cohabitation, but the petitioner consistently refused to return or lead marital life with him. According to the respondent, the petitioner deserted him without any justifiable cause and initiated false proceedings only to extract unlawful gain. As such, she is not entitled to claim maintenance, and the maintenance petition is liable to be dismissed with costs.

4. On behalf of petitioner, Petitioner got examined herself as PW1 and Ex.P1 was marked and on behalf of respondent, Respondent got examined himself as RW1 and no exhibits were marked on behalf of respondent.

5. Heard both sides.

6. Point for determination is: ***Whether maintenance can be granted to the petitioner under Section 125 of CrPC and if so to what extent?***

7. **Point:-** The chief examination of PW1 and RW1 contains allegations and counter allegations which have already been mentioned in the respective petition and counter. Repeating their chief examinations is unnecessary.

8. Section 125 of CrPC entitles a legally wedded wife maintenance if she proves neglect or refusal of maintenance by her husband. Then upon such proof of neglect or refusal court is bound to grant maintenance.

9. PW1 claims that she was driven out of the house due to additional dowry demands and also by inflicting physical and mental cruelty, while the respondent maintains that the petitioner left on her own.

10. Section 125 of CrPC is a beneficial provision and considering the same this court will further examine the available evidence.

11. Section 125 of CrPC dis-entitles a wife from claiming maintenance if she is living in adultery or refuses to live with her

husband without sufficient reason. In this case, there are no assertions of adultery on petitioner. However, both parties claimed to have made attempts for reconciliation.

12. The respondent contended that the petitioner left the matrimonial home without just cause and therefore it amounts to desertion and thus makes the petitioner not entitled to any maintenance. This contention of the respondent cannot be accepted. The Hon'ble High Court of Bombay in ***Mustafa Shamsuddin Shaikh vs Shamshad Begum Mustafa Shaikh And Others*** reported in ***1991 Cri.L.J 1932:1990 SCC Online Bom 97*** held the *court need not determine fault or reason for wife leaving the matrimonial home in proceedings U/s. 125 of CrPC*. In fact, desertion requires intentional permanent forsaking and abandonment without consent and reasonable cause. But the petitioner's leaving the respondent due to hard ship doesn't constitute desertion by any stretch of imagination.

13. The learned counsel for the respondent further contended that except the oral testimony of the petitioner, there is no documentary proof to show the harassment and mental agony meted out to the petitioner in the hands of respondent and his family members. Harassment and mental agony can be felt only by heart and it cannot be seen. Mental agony is a kind of torture or torment which causes a painful wound in the soul which is intangible. It is a psychological fact and asking to produce document, for mental agony suffered, itself a kind of sprinkling pepper on the ulcer and is adding insult to injury and saying so causes further mental agony. As seen from the material available on record, it is stated by the Petitioner that the respondent and his family members used to harass her physically

and mentally and for which she filed 498-A IPC case against them.

14. When specific allegations of torture and ill-treatment are alleged and adduced sufficient evidence by the Petitioner in support of her contention, the act of the Petitioner in leaving the respondent cannot be said to be 'desertion' by any stretch of imagination. It is also a general presumption that no wife will stay away from her husband unless she faces hardship in the hands of husband.

15. Respondent argues that the non-examination of mediation elders weakens the petitioner's case. It is not mandatory for the petitioner to produce mediators as witnesses since the dispute is only a matrimonial dispute that occurs between four walls and no one can adduce evidence better than the petitioner herself. It is the Quality, not Quantity, of evidence matters.

16. The petitioner's failure to produce documentary proof of dowry and gold ornaments is irrelevant since the case on hand is a simple maintenance case and not a case under 498-A of IPC or Dowry Prohibition Act.

17. The learned counsel for the respondent, taking advantage of the petitioner's admission in cross-examination that she is not willing to join the respondent even if he is ready to take her back, contended that such admission itself is sufficient to deny maintenance. This contention cannot be accepted for the reason that the said statement was not made voluntarily but was elicited in response to a specific question put by the respondent's counsel as to whether she would join the respondent if he was

willing to take her back. In reply, the petitioner stated that she is not willing to join him as she apprehends a threat to her life at the hands of the respondent. Thus, the petitioner did not refuse the companionship of the respondent without assigning any reason. It is a clear case where, due to apprehension of threat, she expressed her inability to join him, for which no fault can be attributed to her.

18. The learned counsel for the respondent contended that no documentary proof was produced by the petitioner to show that she has given dowry, gold ornaments. Generally, no one will prepare documents for the presentations given at the time of marriage. In Indian society everything goes on trust and belief and that may be the main reason that vital things in life are not documented. Even assuming that the respondent did not take any dowry, it is wholly irrelevant here because the present case at hand is neither a case under section 498-A IPC nor a case under Dowry Prohibition Act. The case on hand is a simple maintenance case under section 125 of Cr.P.C, which shall be tried in summary manner, and the question of giving and taking of presentations at the time of marriage needs no attention.

19. Coming to the earning capacity of the respondent, petitioner asserted that the respondent owns Ac.10.00 cents of agricultural land at Thurimella Village, valued at about Rs.50,00,000/-, besides three house plots at Hyderabad worth about Rs.20,00,000/-, and thus has sufficient means and financial capacity to maintain the petitioner.

20. On the other hand respondent denied of his income sources and claimed that he is a coolie who earns Rs 500/- per day. His oral say will not be a gospel truth as to his income. It is

the obligation of the husband to maintain his wife and children. He cannot be permitted to plead that he is unable to maintain his wife due to financial constraints as long as he is capable of earning.

21. According to Section 106 of Indian Evidence Act, the fact which is within the knowledge of the party has to be proved by the party alone. As the respondent failed to produce cogent evidence with regard to his income as alleged by the petitioner, adverse inference can be drawn against respondent.

22. Moreover, the Hon'ble Apex Court in ***Rajnesh V. Neha***, reported in ***AIR 2021 SC 569 : 2020 SCC OnLine SC 903*** held "*the plea of the husband that he does not possess any source of income ipso facto does not absolve him of his moral duty to maintain his wife if he is able bodied*"

23. The Hon'ble Apex Court in ***Bhuwan Mohan Singh v. Meena*** reported in ***AIR 2014 SC 2875 : (2015) 6 SCC 353***, held that duty of the husband to provide maintenance has to be fulfilled even by earning money by physical labour.

24. The Hon'ble High Court of Allahabad in ***Hardev Singh v. State of U.P*** reported in ***1995 ALL. L. J. 446***, held "even if a person has become a Sadhu (saint), that does not absolve him from the duty to maintain his wife and children."

25. It was held as early in 1930s by the Hon'ble High Court of Rangoon in ***Maung Tin v. Ma Hmin*** reported in ***AIR 1933 RANGOON 138 : 1933 CRI. L. J. 815*** that a man is not, and ought not to be, permitted by his own voluntary act to free himself from the elementary duty of maintaining his wife and

children and he is amenable to the provisions of Section 488 (125 CrPC), notwithstanding the fact that he has adopted the yellow robe and become a member of the 'Sangha'.

26. This being the position of law, it is the obligation of the husband to maintain his wife. He cannot be permitted to plead that he is unable to maintain the wife due to financial constraints as long as he is capable of earning. It cannot also be believed that a person who was capable of supporting a family by getting married, would all of a sudden become devoid of all sources of income.

27. In the light of evidence adduced and in the facts and circumstances of the case, this Court is of the opinion that as the respondent failed to establish the fact that the petitioner willfully deserted him and on the other hand, petitioner has successfully proved her case.

28. In determining the quantum of maintenance, the court should consider the parties, status, needs and husband's capacity to pay. The amount should allow the wife to live in a reasonable comfort considering her previous lifestyle and ensuring she is not driven to penury. She is entitled to a life similar to what she would have lived in her husband's house.

29. It is settled law when the husband does not disclose to the court, exact income, the presumption will be easily permissible against him. Even considering an average daily wage of a daily wager as Rs. 800/-, the respondent's monthly income can be estimated at least Rs. 24,000/-. As no interim maintenance was paid, this court believes granting monthly maintenance of Rs. 7,000/- to the petitioner, from the date of

application will meet the ends of Justice. Accordingly, the Point is answered.

30. In the result, the petition is partly allowed, granting monthly maintenance of Rs. 7,000/- to the petitioner with effect from the date of the application. The respondent shall pay the monthly maintenance amounts on or before the 10th day of each calendar month, either directly or to the bank account(s) of the petitioner(s), upon furnishing of account details. Arrears, if any, shall be paid in a proportionate manner within a period of three months from the date of this order. Miscellaneous petitions, if any, shall stand closed.

Office is directed to furnish true copy of this order free of cost to the Petitioner under an acknowledgment.

Typed to my dictation by the Stenographer, corrected and pronounced by me in Open Court on this the 06th day of August, 2026

Sd/- Sri K.Bharath Chandra,
I-ADDITIONAL JUDICIAL MAGISTRATE OF I CLASS,
GIDDALUR.

//APPENDIX OF EVIDENCE//

WITNESS EXAMINED

For Petitioner:

PW1 : Shaik Rabiya

For Respondent:

RW1 : Shaik Neerukattu Kasim Vali

Exhibits Marked

For Petitioner

Ex.P1 : Wedding Card along with photo

For Respondent

- Nil -

Sd/- Sri K.Bharath Chandra,

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GIDDALUR