

**In the Court of the Ld. Judicial Magistrate 1<sup>st</sup> Court, Raghunathpur,  
Purulia.**

Present: - Bashir Nawaz

Judicial Magistrate, 01<sup>st</sup> Court,  
Raghunathpur, Purulia.

**Misc Case No. 70 of 2025**

**CIS Registration No. 73 of 2025**

**Case under Section 125 of Cr.P.C.**

**Mohammad Jalaluddin**

**-VS-**

**Shakila Khatoon**

Date of Delivery of Judgment: - The 13<sup>th</sup> of April, 2026

**Order dated 13.04.2026**

This is an application filed by the petitioner under Section 127 of the Code of Criminal Procedure praying for modification/alteration of the order dated 12.05.2015 passed in Misc Case No. 19 of 2008 whereby the petitioner was directed to pay maintenance to the O.P. at the rate of Rs. 5,000/- per month.

The case of the petitioner in brief is that the opposite party had earlier filed a maintenance case being Misc Case No. 19 of 2008 before this court and the said case was disposed of by an ex parte order dated 12.05.2015 directing the petitioner to pay maintenance of Rs. 5,000/- per month to the O.P. It is further contended by the petitioner that subsequently both the parties entered into an amicable settlement and executed a written deed of agreement dated 07.03.2017 whereby it was mutually agreed that the petitioner would pay a lump sum amount of Rs. 3,00,000/- to the opposite party towards her present and future maintenance and after receiving the said amount the opposite party would not claim any further maintenance from the petitioner in future. According to the petitioner, the said amount was paid through cheque and the settlement was final in nature. Hence, the petitioner has prayed for cancellation or modification of the earlier maintenance order passed by this court.

Record reveals that notice was issued to the O.P. but she failed to appear before the court. Vide order dated 07.01.2026, the O.P. was directed to show cause as to why the case shall not proceed ex parte. Despite such direction, none appeared on behalf of the O.P. and accordingly the case proceeded ex parte against her.

On 11.02.2026 the petitioner examined himself as PW1. PW1 Mohammad Jalaluddin stated during his examination-in-chief that the order dated 12.05.2015 was passed directing him to pay maintenance of Rs. 5,000/- per month to the O.P. He further deposed that subsequently both the parties entered into a settlement agreement dated 07.03.2017 in presence of their respective advocates whereby it was agreed that upon payment of Rs. 3,00,000/- as lump sum settlement amount the O.P. would not claim any maintenance in future. PW1 further stated that he paid the said amount as per the settlement and therefore he has prayed for vacating the earlier maintenance order. During his deposition the written settlement agreement dated 07.03.2017 consisting of five pages was produced and the same was marked as Exhibit P1 (collectively).

The evidence of PW1 remains unchallenged as the opposite party did not appear to contest the case and no cross-examination was conducted.

### **DECISION WITH REASONS**

I have carefully considered the materials on record and the evidence adduced by the petitioner. It appears from the uncontroverted testimony of PW1 that after passing of the maintenance order dated 12.05.2015 the parties arrived at an amicable settlement and executed a written deed of agreement on 07.03.2017. The said agreement clearly reflects that the petitioner paid a lump sum amount of Rs. 3,00,000/- to the opposite party towards her present and future maintenance and the opposite party accepted the said amount with an undertaking that she would not claim any further maintenance from the petitioner. The said agreement has been produced before the court and marked as Exhibit P1 (collectively). The testimony of PW1 coupled with Exhibit P1 clearly establishes that there has been a subsequent change in circumstances after passing of the original maintenance order.

Section 127 of the Code of Criminal Procedure empowers the Magistrate to alter, modify or cancel an order of maintenance on proof of change in circumstances of the parties. When the parties themselves settle their dispute and the wife accepts a lump sum amount towards full and final maintenance, the same constitutes a material change in circumstances warranting modification of the earlier order.

In the present case, the opposite party, despite service of notice, did not appear before the court to contest the claim of the petitioner or to challenge the genuineness of the settlement agreement. The evidence adduced by the petitioner therefore remains un rebutted. There is nothing on record to disbelieve the testimony of PW1 or the document produced by him.

Considering the unchallenged evidence on record and the settlement agreement executed between the parties, this court is satisfied that the petitioner has successfully amount towards her maintenance. Therefore, continuation of the earlier maintenance order would not be justified in the facts and circumstances of the present case.

Accordingly, the petition filed under Section 127 Cr.P.C. deserves to be allowed.

Hence it is proved that after passing of the order dated 12.05.2015 there has been a subsequent settlement between the parties and the opposite party has already received a lump sum amount towards her maintenance. Therefore, continuation of the earlier maintenance order would not be justified in the facts and circumstances of the present case.

Accordingly, the petition filed under Section 127 Cr.P.C. deserves to be allowed.

Hence it is

### **ORDERED:**

that the application under Section 127 Cr.P.C. is allowed on contest against the O.P. but ex parte. The order dated 12.05.2015 passed in Misc Case No. 19 of 2008 directing the petitioner to pay maintenance to the opposite party is hereby set aside/vacated in view of the subsequent settlement between the parties as reflected in Exhibit P1 (collectively).

The present Misc Case No. 70 of 2025 is thus disposed of.

Let a copy of this order be kept with the record of Misc Case No. 19 of 2008 for necessary reference.

Typed by me;

Judicial Magistrate, 01<sup>st</sup> Court  
WB01449

Bashar Nawaz  
Judicial Magistrate, 01<sup>st</sup> Court