

**Serial No. 04**  
**Regular List**

**HIGH COURT OF MEGHALAYA**  
**AT SHILLONG**

CRP No. 22 of 2019

Date of Decision: 29.09.2021

**Smti Ruthani Ch. Marak                      Vs.                      State of Meghalaya & Anr.**

**Coram:**

**Hon'ble Mr. Justice H. S. Thangkhiew, Judge**

**Appearance:**

For the Petitioner(s) : Ms. T. Yangi B, Sr. Adv. with  
Ms. S.A. Laloo, Adv.

For the Respondent(s) : Ms. R. Colney, GA (For R 1)  
Mr. P.T. Sangma, Adv. (For R 2)

i) Whether approved for reporting in Law journals etc.:-		Yes/No

ii)	Whether approved for publication in press:	Yes/No
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**ORAL**

1. Matter taken up via Video Conferencing.
2. This application under Article 227 of the Constitution of India has been filed praying for an enhancement of the monthly maintenance amount being paid by the respondent to the petitioner under the provisions of the Protection of Women from Domestic Violence Act, 2005. The same has been occasioned, as per the submissions of the learned Senior counsel Ms. T. Yangi B, in view of the fact that the proceedings before the learned Judicial Magistrate First Class, East Garo Hills, had been disposed of by mutual consent

on 25.05.2017, leaving her with no other recourse but to come before this Court under Article 227. She submitted that prior to the order of compromise, interim maintenance of Rs. 6,000/- has been allowed vide order 04.10.2016 by the learned Court of Judicial Magistrate in the said proceeding, but that due to the ignorance and illiteracy of the petitioner, the same amount of Rs. 6,000/- per month had been accepted as a final compromise amount without her understanding the entire implications of the finality of the matter. Learned Senior counsel submits that as the amount was too meagre and that the petitioner besides herself had to support three minor children, and having no recourse has approached this Court for enhancement of the amount.

3. Mr. P.T. Sangma, learned counsel for the respondent No. 2 (husband) submits that the respondent is not in a position to increase the amount of maintenance as there are many deductions made in his pay, and further maintains that the amount of Rs. 6,000/- had been agreed upon by mutual consent which has also put an end to the case. He further submits that the application under Article 227 is not maintainable as alternative remedy is available to the petitioner.

4. I have heard learned counsel for the parties.

5. This application has been made under Article 227 not assailing any order or the proceedings that had been concluded before the Court of the learned Magistrate, but only with the prayer for enhancement of the maintenance amount from Rs. 6,000/- to Rs. 12,000/-. A perusal of the available records reflects that the proceedings before the learned Magistrate was under the Protection of Women from Domestic Violence Act, 2005 initiated in 07.04.2016, on

a complaint lodged by the petitioner against the respondent and the same was registered as C.R. (DV) Case No. 22 of 2016. The learned Magistrate granted Rs. 6,000/- as interim maintenance to the petitioner which later on compromise was made final and the matter was disposed of on 25.05.2017 leaving the parties to settle their differences out of Court.

6. It is not disputed that the respondent is gainfully employed as a Constable with the Meghalaya Police and presently the said maintenance amount of Rs. 6,000/- is being deducted from his salary monthly. It is also a fact that the petitioner has been left to care for three minor children for which she faces difficulty in sustaining on the amount that she has been receiving from the respondent.

7. The Protection of Women from Domestic Violence Act, 2005 provides that a Magistrate may provide monthly reliefs to meet expenses incurred and losses suffered by the aggrieved person and at Section 20 (d) has provided as follows:-

***“20. Monetary reliefs :-.....***

***(d) the maintenance for the aggrieved person as well as her children, if any, including an order under or in addition to an order of maintenance under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force.”***

In the instant case, it is to be noted that the maintenance of the aggrieved person as well as the children had been settled at Rs. 6,000/- per month which the petitioner finds to be wholly inadequate, but having settled the matter on compromise, could not re-open the same before the Court that granted the said maintenance amount under the Domestic Violence Act.

8. An application under Article 227 not assailing any order, nor impugning any procedure, or report of any gross illegality, or any grave mis-carriage of justice, will not ordinarily be entertained or found to be maintainable. However, in the backdrop of the circumstances of the instant case, in the interest of justice and looking into the provisions of Section 20 (d) of the Act, which does not bar the petitioner from also seeking remedy under Section 125 of the Code of Criminal Procedure, it will be open to the petitioner therefore, to approach the Court of the learned Magistrate to seek maintenance under Section 125 Cr.P.C. which will be in addition to the amount already being received under the provisions of the Domestic Violence Act or take such other steps permissible and in accordance with law

9. Without going into any other aspects of the matter, this revision application is accordingly disposed of with the observations and directions as given hereinabove.

10. No order as to costs.

**JUDGE**

Meghalaya  
29.09.2021  
"V. Lyndem-PS"