

**IN THE COURT OF THE JUDICIAL MAGISTRATE FIRST CLASS, Hatsingimari, Dhubri**

**Misc. Case NO: 170/2016  
U/S. 125 Cr.P.C**

**Ismotara Begum  
VS  
Bappy Hussain**

**PRESENT: PRASENJIT DAS,  
JUDICIAL MAGISTRATE FIRST CLASS,  
Hatsingimari, Dhubri**

**APPEARANCES:**

**Adv for the Petitioner: Abul Hussain  
Adv. for the Opposite Party: None**

**DATE OF EVIDENCE: 18.4.17, 12.9.17**

**DATE OF ARGUMENT: 12.9.17**

**DATE OF JUDGMENT: 14.9.17**

**Ex-Parte Final Order**

1. This is a petition under section 125 Cr.P.C. The case of the petitioner in brief is that she is the legally married wife of the opposite party and married him about 5 years ago and out of conjugal life one child namely Babli Sultana was born and ever since her marriage in her matrimonial life she was physically and mentally tortured for dowry and for non fulfillment of Rs 30,000/- she was driven out of matrimonial house along with the minor

child. It is her plea that the opposite party is neglecting her since then and she is now living with her father and is having financial hardship. According to the petitioner the opposite party has mattress and quilt business and is also a professional painter and has 5/6 bighas of landed property and has a monthly income of Rs 45,000/-.It is her claim that she be given Rs 7000/- per month as monthly maintenance and Rs 5000/- for her minor child as monthly maintenance as the opposite party/husband is failing to neglect her, from the date of filing of this petition.

2. The opposite party received notice, did not contest the case and so the case proceeded ex-parte. Heard Ld. Counsel for the petitioner.

**3. FOLLOWING POINT HAS BEEN SET UP FOR DETERMINATION**

**(a) Whether the opposite party being the husband of the petitioner and having sufficient means neglected or refused to maintain the petitioner and the minor child?**

**(b) To what other reliefs the petitioner is entitled to according to the facts and circumstances of the case?**

**4. DISCUSSION ON THE POINT FOR DETERMINATION AND DECISION ARRIVED THEREON WITH REASONS:**

4.1. Evidence of PW1, the petitioner, reiterated her claim in her evidence which is not repeated for the sake of brevity. PW2 is her mother and she supports PW1. Section 125 Cr.P.C is a beneficial social legislation. In the case at hand I don't find anything to disbelieve the evidence of the petitioner. Her evidence remains

unchallenged. The fact that the opposite party has landed properties and sufficient income is not supported by any cogent evidence but section 125 Cr.P.C is a beneficial legislation so presumption will go in favour of the petitioner as she has established a prima facie case. I have considered the price index and the living standards of petitioner and as such I deem it fit to enforce the provisions of section 125 Cr.P.C against the opposite party. The opposite party will pay an amount of Rs 4000/- per month to the petitioner and Rs 1000/-per month to the minor child as maintenance from the date of filing of this petition, which I consider to be reasonable under the facts and circumstance of the case as there is no cogent evidence on record to show the opposite party's quantum of income. The petitioner is also entitled to cost of Rs 1000/- as per provisions of Section 126(3) Cr.P.C. Both the issues are decided in favour of the petitioner.

#### ORDER

The Petitioner is entitled to maintenance as claimed. The opposite party will pay an amount of of Rs 4000/- per month to the petitioner and Rs 1000/-per month to the minor children as maintenance from the date of filing of this petition. The petitioner is also entitled to cost of Rs 1000/- as per provisions of Section 126(3) Cr.P.C. from the date of this order. Free copy of this order be given to the petitioner.

Given under my hand and seal of this Court on this the 12<sup>th</sup> day of September 2017.

**Prasenjit Das, A.J.S**

## **APPENDIX**

**A. Prosecution Exhibit: Nil**

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**B. Defence Exhibit: Nil.**

**C. Exhibit produced by witness:**

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**D. Prosecution Witnesses:**

- **P. W. 1: Ismotara Begum/Petitioner.**
- **P.W.2: Hasena Khatun.**

**E. Defence Witnesses: Nil.**

**F. Court Witness: Nil.**

**Prasenjit Das.A.J.S**