

**IN THE COURT OF JUDICIAL MAGISTRATE 1<sup>st</sup> CLASS-1  
AIZAWL DISTRICT, AIZAWL**

**Criminal complaint No. 138/2015 U/s 125 Cr.P.C**

Smt. C.Lalhlimpuii  
D/o Raltawnluia  
R/o Melthum  
Aizawl, Mizoram

.....Complainant

-Versus-

C/274 Ramdinsanga  
S/o R.T. Tluanga  
R/o Melthum  
Aizawl, Mizoram

.....Respondent

**BEFORE**

**Shri T. Lalhmachhuana  
Judicial Magistrate 1<sup>st</sup> Class -1  
Aizawl District: Aizawl**

For the Complainant	: Mrs. Dinary T. Azyu, Advocate & Ors.
For the Accused	: Mr. C. Lalrinpuia, Advocate & Ors.

Date of Hearing	: 21.03.2016
Date of Judgment & Order	: 06.04.2016.

**J U D G M E N T & O R D E R**

**Dated Aizawl, the 6<sup>th</sup>, April, 2016**

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This is Criminal Complaint filed by Smt. C. Lalhlimpuii d/o Raltawnluia of Melthum, Aizawl, Mizoram for monthly maintenance of her daughter Lalmangaihzuai who was born on 11.8.2005 from the monthly salary of the minor's father Ramdinsanga S/o R.T. Tluanga of Melthum who is working as Constable in the Mizoram Police and presently posted at Kulikawn Police Station at the rate of Rs. 6000/- per month.

The Petitioner stated that she had married the Respondent on 28.4.2005 under the Mizo Christian Marriage Act and living as husband and wife. As a result of their marriage, she gave birth to their only child/daughter Lalmangaihzuai on

11.8.2005. But unfortunately the parties were divorce on 16.1.2015 and the Respondent left the Petitioner and their daughter from their home. Hence, the instant Criminal Complaint. However interim maintenance at the rate of Rs. 2000/- was granted on 30.11.2015.

Whereas the respondent, while admitting about the marriage of the parties on 28.4.2005 and the birth of their daughter on 11.8.2005, strongly object for passing of monthly maintenance allowance at the of Rs. 6000/- and further prayed to grant only for Rs. 2000/- per month on the ground that he is merely constable under the Mizoram Police and his monthly salary is only Rs. 15,656/- per month wherein he needs to look after his family and to maintain his illegitimate son Lalrindika @ Rs. 2000/- per month.

On careful consideration of both submissions it is an admitted fact for both the parties that they were married on 28.4.2005 and accordingly out of their wedlock their daughter Lalhmangaihzuai was born on 11.8.2005 as their legitimate child. And after marriage of nearly ten years the parties were divorce but the petitioner C. Lalhlimpuii applied only for maintenance of her daughter. Therefore, on the basis of facts and circumstances as stated above it is not necessary for this Court to look into the grounds for rejection of this instant application but for reasonable and suitable grounds for the monthly maintenance allowance.

While considering the monthly maintenance allowance let us look into the relevant section of law u/s 125 of Criminal Procedure Code 1973:-

**125 : Order for maintenance of wives, children and parents. – (1)**

*If any person having sufficient means neglects or refuses to maintain –*

*(a) his wife, unable to maintain herself, or*

*(b) his legitimate or illegitimate minor child, whether or not, unable to maintain itself, or*

*(c) his legitimate or illegitimate child (not being a married daughter) who has attained majority, where such child is, By reason of any physical or mental abnormality or injury Unable to maintain itself, or*

*(d) his father or mother, unable to maintain himself or herself,*

*a Magistrate of the first class may, upon proof of such neglect or refusal, order such person to make a monthly allowance for the maintenance of his wife or*

*such child, father or mother, at such monthly rate [\*\*\*], as such Magistrate think fit, and to pay the same to such person as the Magistrate may from time to time direct.*

**The Hon'ble Gauhati High Court in the case of Mofidul Islam Vs Morshida Begum reported in (2012) GLR 46** observed thus –

*"10 - This Court is of the considered view that since the object of Sect. 125 Cr.PC is to prevent the vagrancy and destitution, it has a civil purpose to fulfil and in arriving at and finding in relation to an application there under. The Court must look to the substances rather than to the form, must avoid strict technicalities of Pleadings and proof and must make a realistic approach to the material available on record, so that purpose aforesaid is not frustrated."*

From the plain reading of the above relevant section of law under Cr.PC with the Hon'ble Gauhati High Court discussion it is clear that there is no rigid or inflexible rule for determination of maintenance allowance but left at the discretion of the trying Court.

Hence, in consideration of submissions made by both parties with relevant section of law under Criminal Procedure Code 1973 and Hon'ble Gauhati High Court discussion as stated above, this Court finds it is reasonable to grant maintenance allowance at the rate of Rs. 3000/- only per month for the minor Lalmangaihzuoli from the monthly salary of her father Ramdinsanga.

### **ORDER**

Monthly maintenance allowance is granted u/s 125 (1)(b) of Cr.PC for the minor Lalmangaihzuoli C/o C.Lalhlimpuii of Melthum, Aizawl at the rate of Rs. 3000/- (Rupees three thousand) only per month from the monthly salary of her father Ramdinsanga S/o R.T. Tluanga of Melthum, Aizawl who is presently working under Mizoram Police as Constable No. C/274 posted at Kulikawn P.S. with effect from the monthly salary of April, 2016, until further order, subject to future enhancement.

With this order, the interim maintenance allowance granted vide Order dated 30.11.2015 stand cancelled.

Further, Superintendent of Police, Aizawl District is kindly directed to make suitable arrangement for deduction of monthly maintenance allowance @

Rs. 3000/- and to deposit the same amount at the Joint Bank Account of the minor with her mother's M.R.B. Account No. 9700075323-7.

With this order this instant Crl. Complt. C/No. 138/15 u/s 125 Cr.PC. is disposed of.

Sd/- T. LALHMACHHUANA  
Judicial Magistrate 1<sup>st</sup> Class - 1  
Aizawl Judicial District, Aizawl

Memo No. \_\_\_\_\_ JMFC-1(A)/2014 : Dated Aizawl, the 6<sup>th</sup> April, 2016

Copy to

1. Smt. C. Lalhlimpuii D/o Raltawnluia, Melthum, Aizawl through Counsel Dinary T. Azyu, Advocate & Ors.
2. C/274 Ramdinsanga, M.R.P. S/o R.T. Tluanga, Melthum, Aizawl through Counsel C. Lalrinpuia, Advocate & Ors.
3. District & Sessions Judge, Aizawl for information.
4. Superintendent of Police, Aizawl for information and necessary action.
5. Registration Section.
6. Guard File.
7. Case Record.

PESHKAR