

IN THE COURT OF ADDITIONAL SESSIONS JUDGE  
AIZAWL JUDICIAL DISTRICT, AIZAWL, MIZORAM.

Present : Shri Vanlalenmawia, MJS  
Additional Sessions Judge,  
Aizawl Judicial District, Aizawl.

Criminal Revision No. 49 of 2015

Shri Lalruatfela  
S/o Sangkhuma,  
C/o 5<sup>th</sup> IR Battalion,  
PTC Lungverh, Aizawl, Mizoram. ....Petitioner

-Versus-

Baby Lalhmingliani  
D/o Lalchualova,  
R/o Mualvum, Kolasib District, Mizoram. .... ..Opposite Party

APPEARANCE

For the petitioner	:	Shri Raymond Lalbiakzama, Advocate.
For the O.P.	:	Ms. Lalhriatpuii, Advocate.
Hearing	:	26.9.2015
Order delivered on	:	9.11.2015

**ORDER**

The revision petition has been filed for setting aside the impugned Order dated 10.6.2015 passed by the learned Judicial Magistrate First Class, Kolasib District in Crl. Complaint Case No. 4 of 2015 under Section 125 of CrPC. In the Order, the present petitioner was directed to pay a sum of Rs. 3,000/- per month to the opposite party for the maintenance of minor Caroline Lalhlimpuii till attaining the age of majority.

2. The revision petitioner's case is that the learned Trial Court allowed the maintenance allowance in favour of minor Caroline Lalhlimpuii by passing ex-parte order dated 10.6.2015 without any summon or order for appearance issued to him. He came to know the order on 29.6.2015 from the Commandant, 5<sup>th</sup> IR

Battalion, Lungverh, Aizawl while passing order for deduction of Rs. 3,000/- from his monthly salary. It is also the case of the revision petitioner; he approached the Trial Court for setting aside the impugned ex-parte order. But, he was advised to approach the Revision Court.

3. I heard the learned Counsel Shri Raymond Lalbiakzama appearing for the revision petitioner and the learned Legal Aid Counsel Ms. Lalhriatpuii for the Opposite party. The Lower Court Record requisitioned for the purpose of disposal of the revision petition is also made available to this court.

4. The learned Counsel Shri Raymond Lalbiakzama submitted that the revision petitioner was drawing a net salary pay of Rs. 16,238/- per month as Constable. According to the learned Counsel, the revision petitioner is maintaining his wife and three minor children, aged about 9 yrs, 6 yrs and 5 yrs respectively. It is also the case of the learned Counsel that the learned Trial court did not take into consideration the means and the paying capacity of the revision petitioner at the time of passing the impugned ex-parte order.

5. On the other hand, the learned Legal Aid Counsel Ms. Lalhriatpuii submitted that the maintenance allowance passed by the learned Trial did not call interference of the revision Court inasmuch minor Caroline Lalhlimpuii, aged about 1 yr and 2 months old is unable to maintain herself. According to the learned Counsel, the maintenance allowance passed in favour of minor Caroline Lalhlimpuii is not exorbitant.

6. I have considered both the submission of the rival parties. I have also carefully perused the records of the learned Trial Court. I find that the learned Trial Court exorbitantly allowed the maintenance allowance of Rs 3,000/- in favour of minor Caroline Lalhlimpuii without taking into consideration the means and the paying capacity of the revision petitioner.

7. However, both the rival parties wanted compromise. As such, the parties are given two hours time.

8. A letter of compromise was jointly made by the parties in the presence of their Ld. Counsels. In the letter of compromise, the revision petitioner

agrees to pay maintenance allowance of Rs.2000/- to minor Caroline Lalhlimpuii w.e.f. the month of October, 2015. The opposite party also agrees to receive the maintenance allowance payable to minor Caroline Lalhlimpuii.

9. In the circumstances, the impugned order is modified by allowing the maintenance allowance of minor Caroline Lalhlimpuii to Rs. 2,000/- per month.

10. The revision petitioner shall pay the maintenance allowance of his daughter retrospectively w.e.f. the month of October, 2015.

11. The criminal revision is partly allowed.

12. No order as to cost.

13. Send back the LCR.

Order is pronounced in open Court on this 9th day of November, 2015 under my hand and seal of this Court.

Sd/-(VANLALENMAWIA)  
Addl. Sessions Judge,  
Aizawl Judicial District,  
Aizawl, Mizoram

**Memo No.\_\_\_\_/AD&SJ(A)/2015 : Dated Aizawl, the 9<sup>th</sup> November, 2015**  
**Copy to: -**

1. Shri Lalruatfela through Counsel Sh. Raymond Lalbiakzama, Advocate.
2. Smt. Baby Lalhmingliani through Counsel Ms. Lalhriatpuii, Advocate.
3. Sessions Judge, Aizawl Judicial District, Aizawl.
4. Judicial Magistrate First Class, Kolasib District, Kolasib.
5. Commandant, 5<sup>th</sup> IR Bn., Lungverh, Aizawl.
6. Registration Section.
7. Guard File.
8. Case Record.
9. Calendar Judgment.

**P E S H K A R**