

**Maroti Vs. Kusum**

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**SooperKanoon Citation :** [sooperkanoon.com/358683](http://sooperkanoon.com/358683)

**Court :** Mumbai

**Decided On :** Jun-13-1989

**Reported in :** I(1990)DMC211

**Judge :** B.G. Deo, J.

**Acts :** [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 125

**Appeal No. :** Crl. Application No. 414 of 1988

**Appellant :** Maroti

**Respondent :** Kusum

**Advocate for Def. :** Ram Lambat, Adv.

**Advocate for Pet/Ap. :** Anjan De, Adv.

**Judgement :**

**B.G. Deo, J.**

1. The Trial Court in Misc. Case No. 6/83 granted Rs. 75/- as maintenance under Section 125 of the Criminal Procedure Code to the non-applicant here Kusum. In revision the learned Sessions Judge enhanced the amount to Rs. 200/- per month. So far as the liability to grant maintenance is concerned there is no doubt about it, since the husband has kept a mistress from whom he has a son. He cannot,

therefore, compel the wife Kusum to come back home. She has a right to reside separately and claim maintenance. So far as quantum is concerned the enhancement has been granted by the Additional Session Judge, on the ground that the husband is an agriculturist having five to six hectares of land and is also doing some business of milk. Taking into consideration the status of the parties and also taking into consideration the fact that the wife is admittedly earning Rs. 3 to 4 as labourer the revisional Court has granted Rs. 200/- per month, as maintenance from the date of the application before the Magistrate which order has been impugned in this application under Section 482, Criminal Procedure Code. The learned Additional Session Judge, however, has based his conclusion on the conjecture of income and assumed status of agriculturist of the spouse. The Trial Court has considered the case and has granted Rs. 75/- per month as maintenance and even taking into consideration that the wife is earning Rs. 3 to 4 as labourer a sum of Rs. 125/- per month would be a just sum for maintenance to her. The application is, therefore, partly allowed and modified as regards that of quantum.

2. The wife is entitled for maintenance. The applicant husband shall pay Rs. 125/- per month to the wife by way of maintenance from the date of original application by wife on condition that all the arrears upto date shall be paid within a period of three months. If such condition is not fulfilled the application of husband shall stand dismissed.

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