

\\IN THE COURT OF THE ADDL. JUDICIAL MAGISTRATE OF FIRST CLASS: AT:
KALWAKURTHY.

Friday, this the 13th day of December, 2019

*Present:- Smt. B. Bhavani,
Addl. Judicial Magistrate of First Class,
Kalwakurthy.*

DVC No. 1 of 2015

Between:-

1. Smt.Khaja Begum w/o M.A.Gaffar, Age 30 years,
2. Shabeera Anjum d/o M.A.Gaffar, Age 08 years,

Both R/o H.No.2-115, II block, Adarshanagar, Amangal, Mahabubnagar Dist.

...Petitioners.

And

M.A.Gaffar s/o Abdullah, o/o Transformer center, Khanaipally, Kothakota,
Mahabubnagar.

...Respondent.

Sub: - Complaint filed by the Petitioner U/s.12 of the Protection of women
from Domestic violence Act, 2005 – against the Respondent – seeking
for compensation, awarding of maintenance allowance and protection
orders- Regarding.

This case coming before me for final disposal in the presence of Sri
B.Amarender, Advocate for the petitioner and of Sri. V.Venkat Reddy, Advocate for the
Respondent and having been stood over for consideration till this day the court
delivered the following:-

ORDER

1. This DVC is filed by the aggrieved person against the respondent seeking the
reliefs of protection order, compensation of Rs.5,00,000/- and maintenance from the
respondent.
2. The brief facts of the case are that the complainant filed the present complaint
against the Respondent before the Project Director DW & CDA, Mahabubnagar-cum-
Protection officer under Domestic violence Act, 2005 at Mahabubnagar. The brief
contents of the complainant are that the complainant wedded with respondent on
22.6.2006 at the parents house of complainant at Amangal as per Muslim rights, caste
and customs prevailed in their religion. At that time of marriage the parents of the

complainant has given Rs.30,000/- net cash, 15 tulas gold, 18 tulas of silver, Hero Honda bike and household articles worth of Rs.1.00 lakhs to the respondent and his parents as dowry on their demand.

3. After marriage of petitioner and respondent they stayed together at Wanaparthi, which was work place of respondent and lead happy marital life. During the subsistence of marriage they begotten a female child named Sheeba Begum. After birth of the female child, the respondent started harassing the petitioner physically and mentally for demand of addl.dowry and with the help of relatives respondent necked petitioner from the matrimonial house in the month of November, 2008. On 9.1.2009, the respondent executed a bond before the Jamia Masjid Muslim committee, Amangal stating that he take complainant and his daughter to his company and not caused any harassment forthwith. Thereafter after 3 days, again respondent started the same ill treatment for demand of addl.dowry. From then the petitioner and her daughter are residing in the house of at her parents Amangal and sustained their livelihood on their mercy. Further petitioner contended that many panchayaths were held before panchayath elders and in the said panchayaths the elders advised to change the attitude of respondent and joined both together for matrimonial life. However in February 2009 again respondent left her company. The petitioner's father put a petition before Masjid committee, Wanaparthi in 2009. As per the directions of Masjid committee the respondent returned gold, silver and acknowledged for returning of meher amount, juda amount, Hero Honda bike and Jehaz articles. But respondent filed a restitution of conjugal rights in O.S.No.119 of 2009 in SCJ court, Wanaparthi. Further petitioner contended that she filed criminal case against respondent at Wanaparthi PS under Sec.498-A, Sec. 3 and 4 of DP Act vide CC No.309 of 2009 which was ended in acquittal and revision is pending before Hon'ble Addl.Sessions Judge, Wanaparthi and also contended that she filed Maintenance case in the Hon'ble court vide M.C.No.11 of 2009 the same was dismissed by the court. In revision in VII Addl.District and Sessions Judge, Mahabubnagar granted maintenance to petitioner and her daughter. Thereafter respondent filed appeal before Hon'ble High Court, Hyderabad and the same is pending and Hon'ble High Court ordered for payment of Rs.2,000/- to the petitioner and her daughter as monthly maintenance. Further

petitioner contended that the respondent threatening her when she attend the court at Kalwakurthy by abusing filthy in language by throwing imputations of suspicious on her and harassing her through phone as such she is unable to sustain her life peacefully.

4. In regard to that she filed a report before Project Director & Ex-Office Protection officer under DVC Act, Mahabubnagar on 13.11.2014 and the officer made efforts to settle the case, but the respondent not heeded her words.

5. *The petitioner prayed for to 1) pass protection orders u/s 18, 2) compensation or damage of Rs.5,00,000/- u/s 22 from the respondent.*

6. In turn the Project Director pleased to investigate the matter and forwarded the case to take cognizance against the Respondents. This court has taken cognizance u/s 12 of DVC Act and issued summons to the respondent.

7. After receiving of the summons the Respondent through his counsel filed counter by admitted the relationship in between the petitioner no.1 and 2 but denied all the contents of the petition raised by the petitioner no.1.

8. During the course of the proceedings the complainant herself is examined as PW.1 and Ex.P1 was marked and she was cross examined by the respondent. Further chief examination of P.W.2 filed, but he was not cross examined by the respondent. On behalf of the respondent none were examined and no representation was made on his behalf.

9. Heard the arguments of petitioner and perused the Record.

10. There is no dispute with regard to relationship in between the petitioner and the respondent. Both are admitted that they are husband and wife and child was born to them.

11. The points for consideration are that :-

a) Whether the complainant is entitled for grant of protection order from the Respondent U/s.18 of the protection of women from Domestic violence act,2005.

b) Whether the complainant is entitled for grant of compensation of Rs. 5,00,000-00 from R.1 u/s.22 of the protection of women from Domestic violence act,2005.

Before going to the facts of the case, it is pertinent to note that the protection of women from Domestic Violence Act, 2005 is to provide more effective protection of the rights of women guaranteed under the constitution who are the victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto.

12. POINT:-

The petitioner examined herself as PW.1 and her father examined as P.W.2. P.W.1 in her chief examination reiterated her case as mentioned in the complaint, which discloses that the petitioner No.1 is legally wedded wife of the respondent as per Muslim rights and customs and lived amicably for some time.. During the wedlock, they blessed with a female child who is minor under the guardianship of petitioner No.1. Thereafter, the respondent with the instigation of his parents harassed the petitioner no.1 on demand of addl.dowry of Rs.2,00,000/- and necked out petitioner no.1 from the matrimonial house on different occasions.

Further the petitioner and her daughter are residing at the parents house of the petitioner and the respondent is not providing any maintenance to the petitioner and her daughter ever since 10 years. Admittedly the petitioner and her daughter are depending on the respondent for their maintenance and they are not earning anything for their maintenance, as respondent No.1 is having sufficient means to maintain petitioner no.1 and 2.

13. On perusal of the evidence of petitioner no.1 it is noticed that respondent demand addl.,dowry of Rs.2.00 lakhs to petitioner no.1 and caused harassment on many occasions and necked out her from the matrimonial life mercilessly and the respondent gave undertaking before the caste elders that he will take care of petitioner no.1 and her daughter and lead the matrimonial life without any obstructions. Here the point to be noted is that petitioner no.1 not furnished any proof whether she was subjected to cruelty and harassment both mentally and physically for addl.dowry of

Rs.2.00 lakh. On other hand petitioner not preferred to lead any evidence i.e., caste elders, her masjid elders where the panchayaths were held between petitioner and respondent, except denying the contentions of respondent in her cross examination. Moreover except mere allegations raised by the petitioner no.1 no other evidence produced before the court to know the willful conduct of the respondent for neglecting petitioner and her daughter. Furthermore she not filed any documentary proof that respondent entered into 2nd marriage and neglecting petitioner and her daughter. Further petitioner contended that as she was given birth to a female baby, the respondent harassed her mentally and physically and demanded addl.dowry and necked out from the matrimonial house. However she not put any other evidence except herself testimony to believe the version of P.W.1 that respondent neglected her and daughter for the reason of giving birth of female daughter.

14. Further petitioner no.1 not furnished any documentary proof to show about the dowry given to Respondent. However she marked Ex.P1 on her behalf to show about articles given to respondent at the time of marriage but on perusal of Ex.P1. It is noticed only the list of articles, but there is no clarify whether the said articles mentioned in Ex.P1 are in custody of respondent. Further she not furnished the income source of respondent, moreover petitioner no.1 not stated specific dates of harassment caused by Respondent and further more she not furnished any medical certificates to show the physical harassment caused by the Respondent. Thus this court is viewed that there is no evidence found on record except the ocular evidence of P.Ws. 1 and 2. However this court taken the consideration of petitioner no.1 and 2 and Respondent negligence on the part of petitioner no.1 and 2. Further Respondent has the bounded duty to maintain his family i.e., petitioner no.1 and 2. Thus inclined to grant the minimum maintenance of petitioner no.1 and 2 by the respondent. But considering the facts and circumstances of the case and taking view of the present cost of living, this court is of the view that a monthly maintenance of Rs.2,000/- each to the petitioner and her daughter is needed to meet the ends. The petitioner has not filed any proof either oral or documentary with regard to grant of compensation @ Rs.5,00,000/-, and protection order, hence the said relief is not granted to the petitioner.

In the result, the DVC is partly allowed granting the monthly maintenance of Rs.2,000/- each to the petitioner no.1 and 2 payable by the respondent from the date of order and the DVC is dismissed in respect of other reliefs. The interim maintenance if any paid by the respondent No.1 shall be deducted from the maintenance granted to the petitioner. The respondent is directed to pay legal expenses of Rs.10,000/- to the petitioner no.1.

Typed to my dictation, corrected and pronounced by me in open court, on this the 13th day of December, 2019.

Addl. Judl. Magistrate of First Class,
Kalwakurthy.

APPENDIX OF EVIDENCE
(WITNESS EXAMINED)

For Petitioners:-

PW.1 Smt.Khaja Begum

PW.2 Naseeruddin

For respondent:

None.

EXHIBITS MARKED

For Petitioners:

Original Jahed Ki Kithab, dt:22.6.2006

For respondent: Nil.

Addl. Judl. Magistrate of First Class,
Kalwakurthy.