

**BEFORE THE HON'BLE III JUNIOR CIVIL JUDGE COURT AT  
ONGOLE, PRAKASAM DISTRICT**

D.V.C. No. 14 of 2017

**BETWEEN:**

Pamarati Anuradha, aged 42 years,  
D/O. Apparao Kovi  
R/O. Flat No. 106, Lakshmi Residency,  
2<sup>nd</sup> Line, Samatha Nagar,  
Ongole, Andhra Pradesh.

... Complainant

**AND**

1. Pamarati Sandeep Bhavan, aged 40 years,
2. Pamarathi Veerabhadra Rao, aged 70 years,
3. Pamarathi Saila Kumari, aged 62 years,

All R/O. D.No. 11-968,  
Aravinda Nagar, Anantapur,  
Andhra Pradesh. PIN: 515001

... Respondents

**MEMO OF WRITTEN ARGUMENTS FILED U/O XVIII RULE 2(3A) OF C.P.C.  
ON BEHALF OF RESPONDENTS, IN THE INSTANT CAUSE/TITLE CASE**

In addition to the oral arguments addressed today, the Respondents humbly submit as follows:-

1. The averments made in Written Statement/objections to main DV petition may kindly be read as part and parcel of these arguments.
2. The only undisputed facts are Marriage between the Complainant and First Respondent on 06-May-2009, venue of marriage that is Tirupati, and both belonging to Hindu Religion.
3. That the respondents submit that the Complainant hereinabove has filed this instant petition under the Protection of Women from Domestic Violence Act 2005, hereafter called as 'DV Act' on 10-Jul-2017, seeking various reliefs. The Complainant herein is the Prosecution Witness – 1/PW-1. The mother of the Complainant is the Prosecution Witness – 2/ PW-1.
4. The Respondents filed a detailed Written Statement of Objections and denied any form of domestic violence and other allegations of cruelty, demand for dowry, physical assaults etc. against the Complainant and pointed out that there are no specific allegations in the Petition and all the allegations are vague. No specific dates were mentioned etc. After filing of Objections, there is no rejoinder from the Complainant, rebutting the averments of Respondents, which indicates that the allegations of the First Respondent are deemed true.
5. That, the Complainant has moved this application under Sec 12 of DV Act without a single shred of supporting evidence corroborating the averments made therein in her Chief

Examination Affidavit and ultimately has admitted to a majority of facts contradictory to her own stand. This establishes that the instant case was instituted against the Respondents only to harass them and cause irreparable damage to their reputation in the public eye. The Complainant made bald claims without adducing any evidence or proof. No specific and ascertainable allegations are made by the Complainant against the Respondents. Except for the Marriage photographs and Marriage Invitation Card, no other evidence was marked by the Prosecution as exhibits in this case. It is the fundamental principle of jurisprudence that whoever claims or alleges something, have the burden of proof on them.

6. That, the Complainant is also not truthful with her residential address before this Hon'ble Court as her address kept changing during the Course of the Trail of this case. The Complainant failed to bring to the notice of this Hon'ble Court about changes to her address. This demonstrates the tendency of the Complainant to conceal important aspect. That, the Complainant used the surname of the First Respondent in the instant proceedings, only to mislead this Hon'ble Court but it is admitted by the Complainant that no a single government issued document including marriage certificate, Home loans issued by SBI Bank, Near RTC Bus Stand branch, the alleged sale deed of flats, her name on her Membership card of Telugu Movie Dubbing Artists Union bears her name as Pamarati Anuradha. The Complainant admitted to this fact in her deposition. It is noteworthy that eventually the Complainant admitted that she has not produced any evidence, regarding change of her surname from Kovi Anuradha to Pamarati Anuradha by following due legal process. This showcases the twisted mindset of the Complainant to go to any extent, just to inflict pain and injury to the Respondents since she is a habitual liar and Narcissistic person, as observed and established in the following arguments.
7. That, the Complainant who is allegedly said to be a victim of domestic violence at the hands of Respondents showed no interest in pursuing this litigation, by promptly attending this Hon'ble Court appearances. This Sec 12 petition under DV Act was supposed to be disposed of within 60 days as per Sec 12(5) of the Act, but it was dragged on for more than 60 months. Therefore, the First Respondent knocked on the doors of the Hon'ble High Court of Andhra Pradesh seeking early disposal of this instant DV case, vide CrI.P. No. 7856 or 2022 disposed on 29-Sep-2022, citing that the Complainant is willfully absenting herself even after this Hon'ble Court started functioning normally and the Respondents

were appearing physically in this Hon'ble Court coming all the way from Anantapur which is 350 KMs away from Ongole. It is worthwhile to observe that even her advocate also stopped appearing for her in the Court and because of this, this Hon'ble Court recorded in the case history that there was no representation for the Complainant. The Hon'ble High Court of Andhra Pradesh was kind enough to pass a direction to this Hon'ble Court to dispose of the instant DV case within 60 days from the date of Order. The copy of the said Order was brought on record of this case via a Memo filed by the First Respondent on 17-Oct-2022 and sought for this Hon'ble Court to expedite the case proceedings. Only due to this Speedy trial Order, this Hon'ble Court gave much needed impetus to the case and the case reached the Arguments stage in a much faster way. Moreover, it is noteworthy to mention that the Respondents were arguing their case, in person without any assistance from a Local Advocate. The Complainant has nothing more to say in her defence on this aspect and she can no longer call herself a victim of Domestic Violence.

**LACK OF SHARED HOUSEHOLD BETWEEN THE COMPLAINANT AND THE SECOND & THIRD RESPONDENTS:**

8. That, the DV Act is a beneficiary legislation and is intended to protect the interest of a woman genuinely subjected to domestic violence in a domestic environment. In order to claim any relief under the DV Act, the Complainant must satisfy and prove before this Hon'ble Court that she is an "aggrieved person" u/s 2(a) of the DV Act, which in turn demands the Complainant to establish that there is a "domestic relationship" between the Complainant and the Respondents u/s 2(f) of the DV Act, which in turn demands the Complainant to establish that the Complainant and the Respondents were living in a "shared household" as defined u/s 2(s) of the DV Act. However, to prove her case of Domestic Violence, the Complainant is expected to make out specific case against the Respondents but her vague or ambiguous pleadings and lack of evidences, does not aid her, as was done in this case.
9. It is evident from the plain reading of the Chief Examination Affidavit and the deposition of PW-1, there was no shared household whatsoever between the Complainant and the Second & Third Respondents at all, since they never lived under a common roof either at Pune or at Hyderabad after the marriage between the Complainant and the First Respondent was performed at Tirupati. The PW-1 also admitted that she never visited Anantapur and

that the Second & Third Respondents never lived with her at Hyderabad or at Ongole. The Second & Third Respondents were maliciously dragged into this instant litigation by the Complainant with a sole intention to harass the elderly Second & Third Respondents by implicating them in this motivated litigation at Ongole, which is over 350 KMs away from their native/permanent residence at Anantapur.

10. Further the burden of proof would be on the Complainant to prove her case of Domestic Violence against the Respondents. On perusal of her petition or the deposition of the Complainant, it is clear that no specific and ascertainable allegations are made by the Complainant against the Second and Third Respondents. As mentioned above though the Complainant has to prove her case to the preponderance of the probability yet the initial burden of proving that the Second and Third Respondents have inflicted Domestic Violence on her, lies on the shoulders of the Complainant. When such is the truth, mere filing of petition with vague allegations which are replicated in the evidence in chief through affidavit does not stand the test of proving Domestic Violence against the Second and Third Respondents. It is to be noted that the acts defined under DV Act are quite different from normal wear and tear of the family life. On analysis of the entire deposition of the Complainant/PW-1 as well as the vague allegations made in the main DV petition, it is evident that the Complainant has miserably failed not only to make specific pleadings as necessary to demonstrate that she suffer Domestic Violence but also failed in proving the same before this Hon'ble Court.

11. That such vexatious litigation launched against the Second & Third Respondents by the Complainant must be held to be vengeful and illegal and terminated at the threshold itself and the elderly Second & Third Respondents must be compensated for the trauma and defamation caused to them by the Complainant. This clearly amounts to misuse of social welfare laws by the Complainant due to her oblique motives and goes to show that the conduct of the Complainant is against the "Statement of Objects and Reasons of the DV Act". The Complainant is not a victim of Domestic Violence at all but an abuser of benevolent Laws of our great Nation. Therefore, it is submitted that the Complainant is liable for defamation proceedings u/s 500 I.P.C. along with the second witness PW-2. The

Respondents rely on the case law *Bharti Anand Vs Sushant Anand and Ors*<sup>1</sup> decided by the Hon'ble High Court of Delhi. Annexed same for consideration of this Hon'ble Court.

**VALIDITY OF THE MARITAL RELATIONSHIP BETWEEN COMPLAINANT AND FIRST RESPONDENT:**

12. The Complainant admitted that her first marriage with one Ravi Kiran was performed in the year 2006 at Chirala and in year 2007 she got divorce in first marriage. It is evident from Sec 14 of Hindu Marriage Act 1955<sup>2</sup>, "*No petition for divorce to be presented within one year of marriage*". It is not the case of the Complainant that she submitted to take assistance from the proviso to Sec 14 which allows for filing divorce within 1 year but under '*exceptional hardship to the petitioner or of exceptional depravity on the part of the respondent*'. Otherwise, it is impossible by law, for a person like the Complainant who got married in 2006, file for her divorce in 2007 itself and the wonder of wonders is that, she also got it allowed by this Hon'ble Court at Ongole. It is a matter of common knowledge that divorce matters do not get adjudicated by this Hon'ble Court but by the designated Hon'ble Family Court at Ongole. It is clearly visible as daylight sky that the Complainant has lied under Oath before this Hon'ble Court about her divorce petition being allowed in the same year it was filed.

13. Interestingly, the Complainant does not remember the surname of her first husband. PW-1's deposition continues as follows: "*I do not remember who applied for mutual divorce but the same was granted by Ongole Court. At the time, my father look after that I do not remember whether I filed a Divorce document before this Court*". When the Complainant was questioned during the Cross Examination, if she declared about her alleged divorcee status in the Marriage Application Form (Form-B), filed to register her marriage with First Respondent, she deposed as follows: "*The Registered document shown by the First Respondent to the witness and in the 12<sup>th</sup> column, date of decree of first divorce was not entered. I do not remember whether I read the contents of marriage registration form and she only signed it.*". It is a noticeable fact that if this Master's graduate can be as evasive as this, indicating that the Complainant wants to avoid answering any questions about her first marriage and more importantly, about her divorce

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<sup>1</sup> Judgment dated 26 April 2022 in [CRL.M.C. 1817/2022]

<sup>2</sup> Sec 14 of Hindu Marriage Act 1955, "*No petition for divorce to be presented within one year of marriage*"

from her first husband, an adverse inference can be drawn as that the Complainant never obtained legal divorce from her first husband from a Competent Family Court. The Complainant admitted that she has not produced any divorce decree establishing divorce from her first husband Ravi Kiran. Despite many suggestions given to Complainant, if she can bring a copy of the Divorce decree to this Hon'ble Court of next date of hearing, the Complainant categorically deposed, she cannot do it, for reasons best known to herself. It can be presumed by this Hon'ble Court that, there is no such divorce decree granted to the Complainant at all. This denoted that the Complainant has committed the offence of bigamy punishable u/s 494 and 495 I.P.C.

14. That, the marriage certificate of the Complainant and the First Respondent clearly indicates the name of the Complainant as '*Anuradha Kovi*' and the Complainant failed to indicate her Status as Divorcee in her Form-B (the Marriage Registration/Application Form). The Complainant did not enter the Date of Divorce Decree in Column 13 and did not mention if 1 year elapsed from the Date of Divorce Decree. This clearly indicates the intention of the Complainant to hide her first marriage from the First Respondent. This clearly shows that the marriage of the Complainant with the First Respondent is *null and void ab initio* as per section 11<sup>3</sup> read with clause (i) of section 5<sup>4</sup> of Hindu Marriage Act 1955.

15. The Complainant failed miserably to produce any documentary evidence in support of her admission about her first marriage and subsequent divorce from her first husband, prior to marriage with First Respondent. Except for the ipse dixit statements of the Complainant in her Section 12 Application, or in the Chief Examination Affidavit of PW-1 and the deposition of PW-1 during the Examination Stage, the Complainant categorically stated that she does not have her Divorce Decree in her possession nor can she bring a copy of the Divorce Order/Judgment passed by the Hon'ble Courts at Ongole. This implicitly indicates that either she does not have her Divorce Decree in her possession or she had obtained divorce from her first husband but after marriage with the First Respondent.

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<sup>3</sup> Hindu Marriage Act, 1955 § 11 Void marriages.—Any marriage solemnised after the commencement of this Act shall be null and void and may, on a petition presented by either party thereto 2[against the other party], be so declared by a decree of nullity if it contravenes any one of the conditions specified in clauses (i), (iv) and (v) of section 5.

<sup>4</sup> Hindu Marriage Act, 1955 § 5 Conditions for a Hindu marriage.—A marriage may be solemnized between any two Hindus, if the following conditions are fulfilled, namely:— (i) neither party has a spouse living at the time of the marriage;

16. The plain reading of the Deposition of PW-1 sufficiently establishes that the PW-1 does not even remember what is the surname/full name of her first husband is; whether her divorce was contested or mutual consented; or for that matter, when was the Divorce decree passed. These evasive answers by the PW-1 must elicit adverse inference from this Hon'ble Court that the Complainant never got her first marriage terminated via a valid legal divorce proceedings before a Competent Court at Ongole or elsewhere. This implies that the Complainant married First Respondent before divorcing her first husband which establishes that First Respondent is not the husband of the Complainant as per the Provisions of Hindu Marriage Act 1955 and the Complainant has committed an offence of Bigamy which is punishable u/s 494 and 495 of Indian Penal Code 1860. The Respondents rely on the decision *Reema Aggarwal Vs Anupam And Others*<sup>5</sup> decided by the Hon'ble High Court of Punjab and Haryana at Chandigarh. Annexed same for consideration of this Hon'ble Court.

17. That, it is imperative to note here that the Complainant has also filed a FIR vide Crime No. 33/2017 in the Women Police Station, Ongole dt: 07-Apr-2017 which resulted in a Charge sheet being filed into this Hon'ble Court vide C.C. No. 220/2018 which is pending adjudication and is currently in the Examination of Prosecution Witnesses Stage. It is pertinent to observe that in that complaint and the FIR registered u/s 154(1) Cr.P.C., the witness statement of Complainant u/s 161(1) Cr.P.C., the Charge sheet filed u/s 173(2) Cr.P.C., or the Examination in Chief of the Complainant recorded by the Learned Assistant P.P. before this Hon'ble Court, none of these documents record the material fact that the Complainant was earlier married and divorced. The only plausible reason for this concealment by the Complainant is that she does not want the truth to be exposed that she has not obtained divorce from her first husband and hence she has conveniently hidden the truth of her first marriage and divorce in the Criminal case but she disclosed her first marriage and divorce in this instant case, filed 3 months after the Criminal case. This is clearly perjury against the Police Department. This conduct of the Complainant is covered under section 114(g) of Evidence Act<sup>6</sup>.

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<sup>5</sup> Judgment dated 14 November, 2013 in CRR-2424-2002

<sup>6</sup> Evidence Act 1872 § 114(g) 'Court may presume existence of certain facts.' The Court may presume that evidence which could be and is not produced would, if produced, be unfavourable to the person who withholds it

18. It is declared by the Hon'ble Apex Court in a catena of case laws that, not even Supreme Court has power to impound a passport of a citizen. But it is submitted that it is on record of this Hon'ble Court that the passport of the First Respondent is held in the Custody of this Hon'ble Court from July of 2017 and due to this, the First Respondent has lost lot of opportunities to travel abroad for employment or pleasure and this adversely affected the freedom of the First Respondent enshrined under Article 21 of the Constitution.
19. This is an act of Perjury by the Complainant to commit fraud upon this Hon'ble Court in an attempt to get Orders favorable to her. Therefore, it is submitted that the Complainant is liable for perjury proceedings u/s 340 Cr.P.C. along with the second witness PW-2, who is the mother of the Complainant, who despite in the knowledge of no divorce between her daughter and her first son-in-law, colluded with PW-1 and perjured herself before this Hon'ble Court.

**NO EVIDENCE TO SUBSTANTIATE THE OMNIBUS ALLEGATIONS OF 'PHYSICAL ABUSE' OF THE COMPLAINANT AT THE HANDS OF RESPONDENTS:**

20. That, according to the Complainant herself as per her deposition of PW-1, the First Respondent was in Bengaluru from June of 2013 and has never come in physical contact of the Complainant until the institution of this DV Case in July of 2017. Therefore, there is no occasion for First Respondent to have committed any physical abuse of the Complainant during this period. The Complainant miserably failed to adduce any documentary evidence in support of the baseless allegations of physical abuse. All the omnibus allegations do not have any specific details as to when, where, who and how such abuse was committed against the Complainant.
21. That the Complainant has also attempted to do some improvement upon her allegation in her deposition. Nowhere in the entire case docket did the Complainant mention that First Respondent beat/hit her in her private parts but during Cross Examination, the Complainant, averred that First Respondent beat/hit her in her private parts, for the first time. The Complainant deposed that she has not filed any medical report before this Hon'ble Court to show that her improvement of First Respondent beating her in her private parts. This showcases that the Complainant is very much capable of material improvements, if opportunity presents itself, and she weaves new narrative to suit herself.

22. That the Complainant failed to support her own averments in her Affidavit supporting Examination-in- Chief during her Cross Examination. The Complainant admitted that there are no specific instances of Physical Abuse whatsoever that she can support and corroborate with credible evidence.

23. Similarly, there are no specific averments against Second and Third Respondents at all with respect to Physical Abuse against the Complainant.

**NO ALLEGATIONS OF 'SEXUAL ABUSE' OF COMPLAINANT BY RESPONDENTS:**

24. That, the Complainant did not make any allegations indicating sexual abuse upon her from any of the Respondents so this aspect has no merits to consider/rebut/challenge.

**NO EVIDENCE TO SUBSTANTIATE THE VAGUE ALLEGATIONS OF 'VERBAL AND EMOTIONAL ABUSE' OF THE COMPLAINANT AT THE HANDS OF RESPONDENTS:**

25. That once the elderly Second and Third Respondents are held to be not covered by the '*shared household*' definition<sup>7</sup>, they can no longer be held to be Respondents in this case and no relief is claimed against them. They had to suffer for over 5 years of defamation, humiliation, undue travel hassles and expenses, ass due to their malicious implication into this false DV case by the Complainant.

26. That, the Complainant made bald allegations on the Second and Third Respondents stating that both of the elderly Respondents instigated their son, First Respondent to mistreat the Complainant. There is no considerable weight to such blanket statements since they are just ipse dixit statement, which tantamount to self-serving statements without any legal basis. Considering the deposition of the Complainant that the Complainant had no occasion to meet or speak with the elderly Respondents till the launching of this DV case, it is evident that the Second and Third Respondents have no occasion to commit any verbal or emotional abuse directly upon the Complainant. The Complainant has not mentioned any specific details in her petition or in her affidavits as to how have the Respondents committed verbal or emotional abuse upon her, resulting in vague allegations.

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<sup>7</sup> Protection of Women from Domestic Violence Act, 2005 § 2(s) "shared household" means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a house hold whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household;

27. That, the Complainant made baseless allegations that the First Respondent was in the habit of Drinking and Smoking even before marriage. This allegation is defamatory in nature and is not supported by any medical reports or other documentary proof by Complainant.
28. The Complainant also made baseless allegations that the First Respondent had a skin disease and a TB patient before marriage. This allegation is defamatory in nature and is not supported by any medical reports or other documentary proof by Complainant.
29. The Complainant admits in her deposition that she traveled to Bangkok, Thailand along with First Respondent for visiting purpose in May of 2010. This indicates that the couple were having a wonderful time, spending their honeymoon together at Bangkok, Thailand without any interference or influence from the Second and Third Respondents.
30. It is evidence from the deposition of the Complainant dated 04-Jun-2019, the Second and Third Respondents allegedly visited Hyderabad in 2010. The current DV case is launched in 2017. Apart from vague allegations on Second and Third Respondents, the Complainant failed to establish any of her allegations on Second and Third Respondents.

**NO EVIDENCE TO SUBSTANTIATE THE BASELESS ALLEGATIONS OF 'ECONOMIC ABUSE' OF THE COMPLAINANT AT THE HANDS OF RESPONDENTS:**

31. The Complainant deposed that her parents gave Rs. 5 Lakhs to First Respondent for his London Trip even though the trip is an Onsite assignment sponsored by the Mahindra Satyam company for a period of 3-4 months on a Short-term UK Work Permit visa valid only for just 1 year. The Complainant did not aver any reasonable cause for First Respondent to demand any money from her parents, citing a company-sponsored short-term work travel. The Complainant eventually deposed that she has not submitted any documentary evidence to show that her parents gave Rs.5 Lakhs to First Respondent for purpose of Job at London. It is evident that the family of Complainant was poor.
32. The Complainant deposed that First Respondent did not demand Rs. 5 Lakhs towards the purchase of Household Articles, but the parents of the Complainant gave the above amount to First Respondent in 2010. Willful giving of money by In-laws to the daughter and son-in-law for purchase of household articles to setup their new family is no crime under any known law.
33. The Complainant admitted in the deposition dated 04-Jun-2019, that the monthly rent for the homes first at Pune and then at Hyderabad was paid by First Respondent, even though

there is no rental agreement between the flat owner and First Respondent. The Complainant added that First Respondent also paid Advance to the flat owner. Even in the dated 17-Jun-2019, the Complainant categorically deposed that she received money i.e., house rent from First Respondent while he was in Bengaluru. The Complainant also admitted that First Respondent gave money to her family necessities/household expenses even when he was working in Bengaluru. This is obviously through bank transfer from the First Respondent to the Complainant's ICICI bank statement. But subsequently, the Complainant contradicted herself and deposed that First Respondent gave her money only for 2015 and 5 to 6 months in 2016 without specifically establishing this fact by way of evidence of her ICICI bank statement. This is a fact that needs to be established by way of documentary evidence as mandated by section 59 of Evidence Act 1872. Moreover, this document is only in the possession or custody of the Complainant only so only by way of bring on record this bank statement, the Complainant should have established that the First Respondent did not pay her monthly amount. The Complainant never had/made any complaint that First Respondent forced her to pay rent for their home.

34. The Complainant made another improvement in her deposition that the First Respondent made a demand from her parents for Rs.10 Lakhs to purchase one house at Bengaluru and her parents gave Rs.10 Lakhs to the First Respondent. This piece of information is totally absent from the Chief Examination Affidavit of the Complainant. This indicates that the Complainant can blurt out any incoherent assertions, even at the risk of damaging her case.
35. The Complainant made another improvement in her deposition of the C.C. No. 220/2018 that her parents gave Rs.20 Lakhs to her and with that money she purchased a flat in Bengaluru. This is a quite an improvement from what the Complainant mentioned in her complaint to Women Police Station, Ongole and her witness statement u/s 161 Cr.P.C. Interestingly, this entire episode of purchasing a flat in Bengaluru is absent in the entire case docket of this instant DV case.
36. The umpteen number of improvement and embellishments done by the Complainant are amply covered under section 14 of Evidence Act<sup>8</sup>. This indicates that the Complainant is quite capable of cooking narratives, convenient for her benefit and twist and turn non-existent events as per her liking. The Complainant does not have any respect to the Oath

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<sup>8</sup> Evidence Act 1872 § 14 'Facts showing existence of state of mind, or of body of bodily feeling.'

she took before this Hon'ble Court and lied with impunity multiple times in both the criminal cases u/s 498A IPC case and the instant DV case.

37. The Complainant averred that the First Respondent never made any payments towards the installments of the loans. It is to be noted that, the Complainant failed to prove the fact that there were loans taken from SBI Bank in the first place to even consider her subsequent allegations. The Complainant failed to bring on record any documentary proof that there was a purchase of flat, taking of 2 Home loans from SBI Ongole, subsequent sale of said flats, First Respondent taking away the sale proceedings. All the allegations around purchase of flats at Ongole or Bengaluru is a total white lie and only a cooked-up story by the Complainant only for purpose of this DV case. As per section 59 of Evidence Act 1872<sup>9</sup>, the purchase and sale of said flats and taking loans from SBI bank are such facts that cannot be proven by oral evidence of the Complainant, but they have to be proven by way of documentary evidence. In the face of not proving of taking of Bank Loans and purchase and sale of said flats, there is no truth to purchase of flats be it at Ongole in 2010 or at Bengaluru in/after 2014. Alternatively, the Complainant is hesitant to bring forth these documentary evidence, because the said transactions may be registered for below-market-value and is worried that their illegal transactions may be exposed in this case proceedings.

38. As is evident from the averments and deposition of the Complainant that she did not bring on record of the case, any of her properties, either in her name or her parents/family to substantiate her allegation that First Respondent laid a trap on the Complainant to enrich himself. The financial state of the Complainant or her family is nowhere near to purchasing even a single property, since none in her family has credit history for any bank to extend any loans. It is also admitted by the Complainant that her brother uses her Credit cards as no bank gives credit cards to someone with no credit history and healthy salary/income. The family of Complainant do not have any credit-worthiness to get any loans themselves.

**NO REASONABLE CAUSES FOR THE COMPLAINANT TO SIT IDLE AND BECOMING A BURDEN TO HER OWN FAMILY:**

39. That the Complainant deposed that she is a native of Ongole, a well-educated person with an Educational Qualification of M.Sc. specializing in Bio-Technology in 2003 itself, from

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<sup>9</sup> Evidence Act 1872 § 59 'All facts, except the contents of documents or electronic records, may be proved by oral evidence'

Muttayammal College, affiliated to Periyar University in Tamil Nadu and one who had worked as Software Engineer in Pune for about a year and then subsequently has worked for a Web Radio Channel by name TeluguNRIRadio for over 1 year and anchored a Talk Show by name 'Allare Allari' completing 250 episodes and most importantly, of sound health and mind. It is admitted that Complainant's parents know that she works in that channel. It is also admitted by the Complainant that she has given dubbing services to various daily television serials and commercials. Despite this admitted position, the Complainant has not alleged any specific instances of Domestic Violence committed upon her by First Respondent. It is pertinent to note that the Complainant admitted that by the time of filing this instant petition, she was residing at Hyderabad and the First Respondent was living and working at Bengaluru since June of 2013 and the Complainant admitted that she has never met the First Respondent in the intermittent time period. It is evident that the Complainant has a flourishing career as an artist in multiple entertainment fields at Hyderabad earning lakhs of rupees into her bank account all the while skipping Court dates at Ongole.

40. The Complainant also admitted that she received money, from First Respondent when he was working at Bengaluru, in her ICICI Bank Savings Account via Net banking to the tune of Rs.25,000/- on a monthly basis. The Complainant deposed that she does not know who deposited Rs.1,69,232/- into her account in March 2017, but she did not deny the credit of the said amount though. This amount/transaction is just one of the many large sums received by the Complainant. It is also pertinent to note that this very same ICICI Savings Bank account was closed by the Complainant on 18-Mar-2017, just 2-3 weeks before launching false criminal litigation against the Respondents. The Complainant withdrew all the remaining funds in that account, the last two withdrawals being for Rs.30000/- and Rs.25000/- dt: on 18-Mar-2017. This was the Salary Account of the Complainant opened on 04-Sep-2008 in Bhandarkar Road Branch, Pune. The Complainant also admitted that she holds a Credit card issue by SBI Cards and Payment Services Private Limited with No. 4335-8778-6534-4179 with a credit limit of 10.35 Lakhs, in addition to ICICI Credit card with No. 4629-8642-1938-1003 which was issued in 2008, with a credit limit of 4.96 Lakhs. It is common knowledge that Scheduled Banks and Private Banks such as SBI Bank and ICICI Bank do not give credit cards to every random person who applies for a credit

card. They do a thorough background checks and proof of employment or income before issuing a Credit card. But going by the averments of the Complainant, she is a jobless person for very many years and have no income at all and is allegedly relying upon the money given by First Respondent and her parents. There is no way Banks issue credit cards to such a person as Complainant who have no income and therefore she is not a person who is in a position to repay any Credit she obtains from these banks. The Complainant surely must have shown a minimum of three times income to these banks, for them to give Credit line to the Complainant. These acts of the Complainant clearly indicate a conspiracy by the Complainant to hatch a plan to lodge a manufactured various Criminal and Civil cases at Ongole, by tampering with material evidence, presumably upon taking legal advice, which includes taking steps such as:

- a) closing off her ICICI Salary/Savings Bank Account opened in year 2008.
- b) establish a story that she relocated to Ongole from Hyderabad, whereas the evidence on record proves that the Complainant continues to live at her Hyderabad Home till date and as also admitted by the Complainant that she still uses the Bharat gas connection and has not disconnected the same.
- c) lodge a fabricated DV case against all the Respondents, falsely implicating Second and Third Respondents along with First Respondent
- d) file an application seeking interim Relief in 2018 but not pursue the same promptly, until Dec 2022, when a Not-Press application was filed, after a lapse of a total of 4 years
- e) brings absolutely no evidence before this Hon'ble Court to corroborate her ipse dixit statements
- f) willfully absents herself from the case proceedings and even her advocate stops representing her, until a mandatory order gets passed by the Hon'ble High Court of Andhra Pradesh (*supra*).

**NO EVIDENCE TO SUBSTANTIATE THE OMNIBUS ALLEGATIONS OF TAKING AWAY OF GOLD JEWELRY OF THE COMPLAINANT BY THE FIRST RESPONDENT:**

41. That, the Complainant/PW-1 categorically admitted in her affidavits (one supporting Section 12 Petition and another filed during Examination-in-Chief) that her parents gave

gold jewelry worth Rs.5 lakhs to First Respondent during the marriage at Tirupati, as Dowry. But the Complainant deposed during her Cross Examination that the alleged non-existent gold jewelry was presented as gifts to First Respondent but not as Dowry. It is obvious that, the Complainant realized that if the said averment is continued as Dowry, her own parents will be liable for the crime of giving dowry, which is punishable under Sec 3 of Dowry Prohibition Act 1961. Hence there is change in the version of the Complainant when it came to giving of gold jewelry: ***From Dowry to Presents/gifts***. It is the law of the land that once presents/gifts are accepted by the receiver, the ownership of the said gifts is also transferred to First Respondent, in this case. The parents of the Complainant has no right to seek the alleged golden jewelry from the First Respondent. Moreover, the Complainant is prohibited to take such a reversal due to the eStoppel<sup>10</sup> under Evidence Act. Specifically, the Section 115 of Evidence Act<sup>11</sup> provides that the Complainant may not be allowed to first state that her family committed the crime of giving-dowry under Oath during recording of Affidavit-in-Chief but then to state during cross examination that there was no dowry given to the First Respondent at all.

42. Furthermore, the PW-1 categorically admitted that First Respondent did not demand any gold ornaments but the parents of PW-1 presented the same as customary practice/purpose. As is evident from the record of the case before this Hon'ble Court, that the Complainant did not produce any list of presents as prescribed under ***Rules 2, 3 and 4 of 'Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985'***<sup>12</sup>. Just listing a random set of jewelry in a schedule and attaching the same to the Sec 12 DV petition does not support the fake case of the Complainant, especially when such list is not supported by proof of purchase and proof of handing over said Jewelry to First Respondent. This brings the issue to a conclusion that there were no Jewelry at all that were given to First Respondent and more importantly, there was no demand of whatsoever nature, during the marriage at Tirupati, from First Respondents. The Complainant already

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<sup>10</sup> Evidence Act 1872 § 31 Admissions not conclusive proof, but may estop.—Admissions are not conclusive proof of the matters admitted but they may operate as estoppels under the provisions hereinafter contained.

<sup>11</sup> Evidence Act 1872 § 115. Estoppel.—When one person has, by his declaration, act or omission, intentionally caused or permitted another person to believe a thing to be true and to act upon such belief, neither he nor his representative shall be allowed, in any suit or proceeding between himself and such person or his representative, to deny the truth of that thing.

<sup>12</sup> Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985 Rule 2, 3 and 4.

admitted that Second and Third Respondents were no present at Tirupati, during the wedding between the Complainant and the First Respondent.

43. For every transaction that the Complainant alleges, it can be noticed that there is no legally admissible evidence but for each contradiction or concealment of the Complainant exposed by the First Respondent under Evidence Act, there is a clear Court-admissible evidence that the Complainant willfully admits/accepts in her deposition. The Complainant clearly relies only on her ipse dixit statements to win this false DV case.

**HUSBAND IS THE VICTIM OF DOMESTIC VIOLENCE BUT NOT THE WIFE:**

44. The Complainant admitted that she got her first IT Industry job at Zensar Technologies, Pune on the reference and recommendation of First Respondent and her Designation in that company was Senior Software Engineer. The Complainant also deposed that after completing her Post Graduation in 2003, she worked as a Tele Caller and Quality Controller in 2004. It is only due to the intervention of First Respondent the Complainant was able to get a high-paying job in IT industry all the way from a Tele caller which was only for the purpose of pocket money.
45. The hypocrisy of the Complainant is amply demonstrated when she avers that she does not remember her own salary while working at Zensar Technologies, Pune but alleges that the salary of First Respondent was Rs.50,000/- to Rs.60,000/- per month.
46. The Complainant admitted that she lived with First Respondent at Pune, after her marriage. She also admitted that she relocated to Hyderabad a few days before First Respondent. But the Complainant did not go to Bengaluru along with First Respondent. Not just that but the Complainant categorically deposed that she never visited the First Respondent at Bengaluru even for a single day. It is also admitted by the Complainant that she has received money from First Respondent. She also admittedly received Rs.25,000/- per month in cash, which was hand delivered by her brother at Hyderabad all the way from Ongole. This conduct of Complainant clearly indicates that, for reasons best known to her, she wants to live in Hyderabad with the money of First Respondent, even though she does not have any friends or family living there at Hyderabad. This is effectively desertion of First Respondent by the Complainant. Since First Respondent is a male person and there is no law to voice his concerns and issues just like the Complainant has under DV Act, he is left without any civil remedy against such desertion and neglect by the Complainant.

47. The Complainant has failed to bring clarity to the fact that why was she living at Hyderabad and not accompany her husband who was working at Bengaluru when she has no job at Hyderabad from 2010 onwards, as she alleges that she never worked at Hyderabad and had no income and her parents are at Ongole.
48. The Complainant has maliciously implicated Second and Third Respondents to sully and damage their reputation in the society that they live in and among their friends and family. The Second and Third Respondents were forced to appear before this Hon'ble Court irrespective of their health conditions or the difficulty in traveling 700 KMs per each trip to Ongole. It is on record of this Hon'ble Court that the Complainant absented herself from great many Court appearances in this case, without any reasonable cause, despite claiming to be a resident of Ongole. She could have taken a local auto to reach the Court, but she chose not to appear before the Court.
49. It is pertinent to note that the Complainant admitted that she married the First Respondent at Tirupati and then setup family with First Respondent at Pune and then lived with him at Hyderabad from 2009 to 2013, when in June of 2013, the First Respondent moved alone to Bengaluru to join the Tech Mahindra company as Project Manager. In none of these places, the Complainant filed any cases against the First Respondent. But 4 years after living separately from the First Respondent, she filed the matrimonial litigation against the First Respondent and his elderly parents Second and Third Respondents at Ongole, with a singular view to take advantage of her native place since her parents live there. When the Criminal complaint was filed in April of 2017 and the DV case was filed in Jul of 2017, the First Respondent was living separately away from the Complainant in Bengaluru, his elderly parents Second and Third Respondents were living at Anantapur and the Complainant herself was living at Hyderabad, as evidenced by the Closure of ICICI Bank account in March of 2017 and also the continuation of Bharat gas connection. An overall view of the above facts indicate that the Complainant made elaborate scheme to implicate Respondents in false litigation out of her vengeance.
50. The Complainant deposed that there was a conversation for mediation between the parents of the Complainant and the First Respondent but does not remember when, where and how. From the admission of the Complainant, she is already in receipt of Rs.25,000/- per month from the time First Respondent started working at Bengaluru which is from June 2013,

which adds up to a total sum of Rs.12,00,000/- (Rs.25,000/- X 48 months) given to the Complainant, only towards her household expenses at Hyderabad. Given this fact situation, there is no occasion for First Respondent to ask/demand money from Complainant for any conceivable reasons.

51. The First Respondent suffer loss of income from May 2018 onwards as he had to leave his job as Solution Architect with LnT Infotech, Bengaluru and focus on the motivated litigation the Complainant unleashed upon him and his elderly parents. Unlike the Complainant, who sat idling through most of her adult life doing nothing and becoming burden to her own family members, the First Respondent studied Law from September 2018 as a full-time student and completed his LL.B. degree in August 2021, with a Second-class pass from Sri Krishnadevaraya University for the period 2018-2021. He supported himself during the entire 4 years from his savings amount without becoming a burden to his elderly parents. He enrolled with Bar Council of Andhra Pradesh on 17-Mar-2022 and started practicing as High Court. As already averred, the First Respondent has lost lot of income-generating opportunities within India and abroad simply due to not having his passport in his custody. Currently he has no sustainable & regular income on monthly basis.
52. It is submitted that the Complainant cannot be allowed to take advantage of her own wrong doing. On one hand, the Complainant clearly committed the offences of Bigamy, Cheating, Defamation, Criminal Intimidation and Perjury upon this Hon'ble Court and on the other hand cannot plead innocence and seek justice. The Apex Court in the landmark case ***Dalip Singh Vs State of U.P. and others*** held that, “*who attempts to pollute the stream of justice or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final*”.<sup>13</sup>

### **CONCLUSION AND PRAYER:**

The Complainant has failed miserably to prove that the Complainant was subjected to any domestic violence as defined u/s 3 of the DV Act by the Respondents. Hence on this ground itself the petition filed by the Complainant may be dismissed, imposing costs upon the Complainant.

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<sup>13</sup> Judgment in Civil Appeal No. 5239 of 2002

That this is a sheer misuse of the welfare statute which is a boon to women genuinely subjected to domestic violence. It is due to such misuse and abuse of DV Act, that the Hon'ble Supreme Court and the Hon'ble High Courts in India, in many cases have held that the Courts should be cautious while granting reliefs under this statute and also grant only if a proper case is made out. There is a duty cast on this Hon'ble Court therefore to not allow any reliefs to such disgruntled women, just because they are women to abuse the process of law, to the detriment of the society in general and men in particular.

It is finally submitted that, it is on record of this case that, guidelines around maintenance cases as passed by Apex Court in *Rajnish Pal Naidu Vs Neha Naidu Joshi and Anr* [2020 SCC ONLINE SC 903]<sup>14</sup> were not at all followed/adhered to in this case. The Complainant failed to address her affidavit of Income and Liabilities and this Hon'ble Court did not insist the Complainant. This case law and the circular to follow it scrupulously is available on the eCourts portal for Prakasam District Judiciary.

In the instant case it can be seen from the multiple proceedings initiated by the Complainant against the Respondent in this Hon'ble Court, under Sec 498A IPC in addition to the above DV case, just to harass the First Respondent and his parents to force Respondent No.1 to agree to her illegal demands.

**WHEREFORE**, it is prayed that this Hon'ble Court be pleased to reject the claims made by the Complainant in her instant DV petition filed under DV Act as the Complainant has approached this Hon'ble Court with unclean hands and suppressed as many material facts as possible for her and pass such other orders in favor of the Respondents, as this Hon'ble Court deems fit and proper, under the facts and circumstances of the case, in the interest of justice and equity.

Place: Ongole

Dated: 11 - JAN - 2023

FIRST RESPONDENT

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<sup>14</sup> Judgment dated 04 November 2020 in Criminal Appeal No. 730 of 2020