

IN THE COURT OF THE JUDICIAL MAGISTRATE OF I CLASS,
SPECIAL MOBILE COURT, ONGOLE.

Present :: **Sri Kumar Vivek,**
Judl. Magistrate of I Class,
Special Mobile Court, Ongole.

Tuesday, this the 20th day of January, 2015.

D.V.C.No. 9 of 2014.

Between:

Tagaram Raja Kumari W/o Cherukuri Aruna Kumar,
19 years, D/o Israil, R/o Arundhathi Nagar,
Tangutur village and mandal, Prakasam District.

....Petitioner

and

1. Cherukuri Arun Kumar @ Arun S/o Audeiah, 25 years,
2. Cherukuri Audeiah S/o Kondaiah, 49 years,
3. Cherukuri Sumati W/o Audeiah, 46 years,
4. Cherukuri Kiran S/o Audeiah, 29 years,

All are resident of D.No. 17-97, Arundhathi Nagar,
Tangutur village and mandal.

....Respondents

This case coming on 07-01-2015 for final hearing before me in the presence of Smt. N.Vasundara, advocate for petitioner, and of Sri N.Mohan Das and Sri K.Sankar Kumar, advocates for respondents having stood over for consideration till this day, this Court delivered the following:

// ORDER //

1. This is the petition filed under section 12 of the Protection of the Women from the Domestic Violence Act, 2005, by the petitioner against the respondents alleging that the petitioner was subjected to domestic violence at the hands of the respondents, and thereby she has claimed reliefs of accommodation in the shared household of the respondents bearing no. 17-97, Arundhathi Nagar, Tangutur village and mandal, protection order, maintenance, compensation and costs.

2. The factual matrix of the case of the petitioner as set out in the petition in brief is that the respondent no.1 has been working as a mason at Nalgonda, that the petitioner and the respondent no.1 have performed love marriage at Poleramma temple, Nalgonda, on 15-12-2011 at 10-00PM as per Hindu rites and customs and their marriage was solemnized and consummated, that after their marriage they led happy martial life in the rented house at Nalgonda, that later respondents no. 2 to 4, who were against the marriage of

the petitioner with respondent no.1 as no dowry was presented to them in the marriage of the petitioner with the respondent no.1, conspired and they asked the petitioner and the respondent no.1 to come to Tangutur, that the respondent no.1 brought the petitioner to Tangutur where they have resided in the house of the respondents bearing door no. 17-97, Arundhandi Nagar, Tangutur, that the respondents have abused the petitioner and also manhandled the petitioner for her failure to present dowry or any valuables to them, that on 02-02-2012 respondents no. 1 to 3 on the instigation of respondent no.4 have beaten the petitioner and necked out the petitioner out their house, that on the same day a *panchayat* was held at instance of the petitioner in the presence of the village elders wherein the respondent no.1 has realized his mistake and the respondents have sought time to take back the petitioner into their company, that later the respondents have installed an iron gate in the compound wall of their house and locked it from inside, that the respondents have also locked the ground floor of the said house and they have been residing on the first floor of the said house, that the father of the petitioner is no more alive that the petitioner do not have any shelter and means to maintain herself, and that the petitioner is also having threat to her life from the respondents, therefore, this petition has been filed.

3. The respondent no.1 has filed counter and the same has been adopted by the respondents no.2 to 4 and the respondents besides denying the material averments of the petition have submitted that the petitioner is the daughter of the brother of respondent no.1 and sister by courtesy and the petitioner comes within the prohibited degree of the marriage as per Hindu law, that the petitioner is not wife of the respondent no.1 as no marriage has been performed between the petitioner and the respondent no.1, that the petitioner never resided along with the respondent no.1 in the house bearing door no. 17-97, Arundhati nagar, Tangutur village and mandal, that the said house has been orally partitioned between the respondents no.2 to 4 wherein the ground floor of the said house has fallen to the share of the respondents no.2 and 3 and the first floor of the said house has fallen to the share of the respondent no.4, and the respondent no.1 has been given Rs.3,00,000/- cash towards his share with which

he has started fruit juice business at Vishakaptnam that later ran in loss, that the respondent no.4 has been staying at Ongole, that the petitioner has filed this petition as counter blast to the crime no. 21/2012 that was filed by the respondents against the petitioner and her relatives under section 448, 506, 427 of the Indian Penal Code, before the Tangutur police station, and also the crime no. 31/2012 that was filed by the respondent no.2 against the petitioner and her relatives under section 448, 354, 323 r/w 34 of the Indian Penal Code, before the Tangutur police station, that the respondent no.1 is working as a mason coolie, and that the respondents have been falsely implicated by the petitioner, therefore, the petition is liable to be dismissed with costs.

4. On the side of the petitioner the petitioner examined herself as PW1 and the paternal grandfather of the petitioner has been examined as PW2. On the said of the respondents no orally or documentary evidence has been let in.

5. Heard the arguments advanced on behalf of the petitioner. The respondents did not choose to advance arguments in spite of affording sufficient opportunity as such the arguments of the respondents have been treated as "heard".

6. Perused the material on record.

7. **Points for determination:**

1. *Whether the petitioner was subjected to domestic violence by the respondents ?*
2. *Whether the petitioner is entitled to the reliefs claimed by her in the petition?*
3. *To what reliefs ?*

8. **Point No1:-**

The petitioner has deposed before this Court as PW1 that her marriage with the respondent no.1 was performed 10 days prior to the Christmas festival in year 2011 at Poleramma temple, Nalgonda, at about 10-00PM, that during the said period respondent no.1 was working as a mason at Nalgonda, that after two months of their marriage her in-laws on the pretext of ill health of the respondent no.2 have called her and the respondent no.1 to their house at Tangutur, that she accompanied the respondent no.1 to the house of her in-laws

and she stayed there for about one month, that during the said period her in-laws have harassed her for dowry and they have necked her out of their house, and that the respondent no.1 did not respond even when her in-laws were harassing her. PW1 admits during the course of her cross-examination that the respondent no.1 attend mason work. PW1 states during the course of her cross-examination that the respondent no.4 though resided at Ongole, but he used to come to the house of his parents at Tangutur. PW1 has denied suggestion during the course of her cross-examination that her marriage with the respondent no.1 was not performed at Poleramma temple, Nalgonda, that she never resided at her matrimonial house along with the respondents, that the respondents have never harassed her and necked out of their house, and that she has filed this petition as counter blast to the criminal cases filed by respondents no.2 and 3 against her and the members of her family.

9. PW2 has deposed in his chief examination affidavit filed in lieu of his chief examination on the same lines of PW1. PW2 states during the course of his cross-examination that he did not attend the marriage of PW1 and the respondent no.1, and that respondent no.4 has been residing at Ongole, due to his employment, but he used to visit the house of his parents.

10. The respondents dispute the marriage of the petitioner with the respondent no.1 and the status of the petitioner as the legally wedded wife of the respondent no.1. No doubt the petitioner did not produce any marriage certificate issued by the authorities of Poleramma temple, Nalgonda, and admittedly PW2 did not attend their marriage, however, the petition under section 12 of the Protection of Women from Domestic Violence Act, 2005, is maintainable even if a woman has failed to prove that she is the legally wedded wife of the man, provided she shows a domestic relationship existed between them, and that she had lived together along with the man in the shared household. Such evidence is given by PW1 before this Court, and that there is no evidence in rebuttal. The evidence of PW1 regarding domestic relationship with respondent no.1 in the shared household and her subjection to domestic violence by the respondents is also corroborated with the evidence of PW2, her paternal

grandfather, and the said testimonies of PW1 and PW2 is also not destroyed in material particulars by the respondents during the course of their cross-examination except giving suggestions that were denied by them. When the respondents denies the relationship itself, it can be used as one of the circumstances against them for the proof of domestic violence. The evidence of PW1 and PW2 prove that the petitioner was neglected by the respondents and subjected to domestic violence for dowry. This point is answered accordingly in favour of the petitioner and against the respondents.

11. Point No.2:-

In view of my finding in point no.1 that the petitioner was subjected to domestic violence it is held that the respondent no.1 is liable to maintain the petitioner as such the petitioner is entitled for the maintenance as per the present costs of living. The income of the respondent no.1 while working as mason is not properly brought on the record of the case, except saying that the respondent no.1 is attending mason work. Considering the abled body of the respondent no.1 and his avocation as mason, current rate of inflation and the status of the petitioner this Court deem it proper that monthly maintenance @ Rs.3,000/- per month payable by the respondent no.1 to the petitioner will be just and proper. The respondents have subjected the petitioner to domestic violence due to which the petitioner has suffered mental agony and pain under such circumstance the respondents are liable to pay compensation of Rs.1,00,000/- to the petitioner. The petitioner has contested this case as such the petitioner is awarded costs of Rs.5,000/- that is payable by the respondent no.1. Admittedly the petitioner has not been residing in the shared household. Hence, the respondents are directed to secure same level of alternate accommodation as in the share household (house bearing no. 17-97, Arundhati nagar, Tangutur village and mandal) for the petitioner as was enjoyed by her in the shared household, or to pay the rent for the same. This point answered accordingly in favour of the petitioner and against the respondents.

12. Point No.3:-

In view of my finding in point no.2 the petition is allowed in part granting following reliefs to the petitioner.

1. the respondent no.1 is directed to pay monthly maintenance @ 3,000/- to the petitioner on or before 10th of every succeeding month;
2. the respondents are prohibited from causing any domestic violence to the petitioner in any manner as described under section 18 of the Protection of the Women from Domestic Violence Act, 2005;
3. the respondents are directed to secure same level of alternate accommodation as in the share household (house bearing no. 17-97, Arundhati nagar, Tangutur village and mandal) for the petitioner as was enjoyed by her in the shared household, or to pay the rent for the same;
4. the respondents are directed to pay Rs.1,00,000/- to the petitioner towards compensation; and
5. the respondent no.1 is directed to pay Rs.5,000/- towards costs of this petition.

Typed on my dictation to the personal assistant, corrected and pronounced by me in open court, this the 20th day of January, 2015.

Sd/- Kumar Vivek
**Judicial Magistrate of I Class,
Spl. Mobile Court, Ongole.**

//APPENDIX OF EVIDENCE//

:- WITNESSES EXAMINED :-

For Petitioners

P.W.1 :T.Raja Kumari

P.W.2 : T.Devadanam

For Respondent:

- none -

// DOCUMENTS MARKED //

For Petitioner: -Nil-

For Respondents: - Nil-

Sd/- Kumar Vivek
**Judicial Magistrate of I Class,
Spl. Mobile Court, Ongole.**

// True copy //

Judicial Magistrate of I-Class,
Spl. Mobile Court, Ongole.