

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.

Wednesday, this the 2nd day of November, 2016

D.V.C.No. 11 of 2014

Between:

Tanguturi Sai Kumari W/o Vamsi @ Vamsi Krishna, 20 years,
Vellampalli village, Maddipadu mandal.

....Petitioner

and

Tanguturi Vamsi @ Vamsi Krishna S/o Kondaiah, 24 years,
R/o Kakaturivaripalem village, Tangutur mandal.

....Respondent

This case coming on 21-10-2016 for final hearing before me in the presence of Sri P.Vengaiah, Advocate for Petitioner, and of Sri K.Shenkar Kumar, Advocate for Respondent, having stood over for consideration till this day, this Court delivered the following:

// ORDER //

1. This is petition filed under section 12 r/w 19(1)(f) and 20(1)(d) of the Protection of the Women from the Domestic Violence Act, 2005, by the petitioner(wife) against the respondent(husband) claiming residence and monthly maintenance @ Rs.50,000/-.

2. The factual matrix of the case of the petitioner as set out in the petition in brief is that her marriage with the respondent was performed on 13-05-2013 at Kakaturivaripalem village, as per Hindu rites and customs and after the marriage the petitioner led marital life with the respondent at Hyderabad; that at the time of their marriage her parents have presented sum of Rs.5,00,000/- cash, gold ornaments weighing five sovereigns and other household articles worth Rs.1,00,000/-; that from the beginning of their marriage the respondent was suspecting the character of the petitioner and whenever any of the relatives of the petitioner visited the house of the respondent the respondent was suspecting that the petitioner is having extra marital affair with the said relative, and in that regard the respondent was harassing the petitioner by abusing the petitioner by alleging that she is having extra marital affair with those relatives; that five months ago on one occasion when the petitioner was conversing with her relative on the

telephone then the respondent had abused her and beaten her for conversing with her relative and he had forced the petitioner to leave his company as such the petitioner came to the house of her parents, and since then she has been residing along with them; that the parents of the petitioner have mediated the dispute with the respondent, but the said mediation did not yield fruitful results; that the petitioner is unable to maintain herself that she is not well educated, and also her parents are not financially sound to maintain the petitioner; that the family of the respondent is having vast properties including Ac.12-00 of dry land, tobacco barn and one terraced building at Kakaturivaripalem village, two three storied building at Annavarappadu, Ongole from which the family of the respondent is deriving monthly rents of Rs.50,000/-, one two storied building at Bhudevi Nagar, Hyderabad, out of which the family of the respondent is getting monthly income of Rs.25,000/-; that the respondent is earning Rs.50,000/- and he is also doing finance business; that the respondent has imputed false allegations of unchastity to the petitioner and he is intentionally not maintaining the petitioner, and he is also not providing shelter to her and he has filed HMOP 65/2014 for divorce on the file of learned Additional Senior Civil Judge, Ongole, with false allegations against the petitioner; therefore, this petition has been filed.

3. Counter is filed on behalf of the respondent and besides denying material averments of the petition it is submitted that the petitioner was not interested in leading marital life with the respondent from the inception of their marriage and the petitioner has stated to the respondent that under the pressure of her parents she has married him; that the petitioner was not caring the respondent; that the petitioner was humiliating the respondent and his parents with her pinching words and also throwing house hold articles on the respondent and his parents, and creating scene on the streets by picking quarrel without any reason; that the petitioner had left her matrimonial house without any sufficient reason without informing the respondent; that the respondent has filed HMOP 65/2014 on the file of learned Additional Senior Civil Judge, Ongole, for divorce against the petitioner on the ground of cruelty and after receiving summons in the said HMOP the petitioner has filed the

present petition with false allegations only to harass the respondent, and prayed this Court to dismiss the present petition with costs.

4. On the side of the petitioner, the petitioner herself examined as PW1 and got examined her father as PW2. On the said of the respondent the respondent examined himself as RW1, got examined his father as RW2, and also got examined the cousin of PW1 as RW3 apart from exhibiting Ex.R1 to Ex.R6 through RW2. No documents have been exhibited on the side of the petitioner.

6. Heard arguments advanced on both sides.

7. Perused the material on record.

8. **Point for consideration:**

Whether the petitioner is entitled to residence order, and maintenance order against the respondent on the grounds put forth by her?

9. **Point:**

Imputation of false allegations of unchastity to the petitioner by the respondent whenever the relatives of the petitioner was visiting the house of the respondent or when the petitioner was once talking to one of her relatives on the telephone tantamounting to domestic violence is the basic premise for filing the present petition by the petitioner against the respondent. The petitioner and her father(PW2) has deposed in one voice in their chief examination affidavits filed in lieu of their chief examination that from the beginning of the marriage the respondent was suspecting the fidelity of the petitioner and whenever the relatives of the petitioner were visiting the house of the respondent or on one occasion when the petitioner was conversing with one of her relatives over telephone, the respondent was suspecting her character, and he was hurling false imputation of unchastity to the petitioner, and finally he had forced the petitioner to leave his company. The defence of the respondent is that the petitioner had married him under the pressure of her parents, and she was not interested in leading matrimonial life with him, and that without any reason she had voluntarily left his company. PW2 states during the course of his cross-examination that his relatives are not residing at

Hyderabad, and that they are residing at Ongole, and that he had only once went to the house of the respondent at Bhudevi nagar, Hyderabad. Therefore, it can be said that only the relatives of the petitioner from Ongole were allegedly visiting the house of the respondent at Bhudevi nagar, Hyderabad. It is not the case of the petitioner that when PW2 had visited the house of the respondent then the respondent had suspected her fidelity. The petitioner and PW2 did not state the names of the relatives who had visited the house of the respondent when the petitioner and the respondent were residing together. The petitioner and PW2 even also did not speak about the name of the relative with whom the petitioner was talking over telephone after which the respondent had allegedly forced the petitioner to leave his company. The evidence of the relatives of the petitioner who are said to have visited the house of the respondent when the petitioner was residing with the respondent, and also the evidence of the relative with whom the petitioner was talking over telephone prior to her alleged necking out from the house by the respondent are best evidence to establish the allegations of the petitioner against the respondent about the reason for imputing false allegations of unchastity to her. None of the said relatives of the petitioner are examined on the side of the petitioner to establish the very cause for the respondent to level allegation of unchastity to the petitioner leading this Court to draw an adverse inference against the petitioner under section 114(g) of the Indian Evidence Act. It is not in dispute that the respondent has filed HMOP 65/2014 on the file of Additional Senior Civil Judge, Ongole for divorce on the ground of cruelty against the petitioner. The cross-examination of the petitioner indicates that she has filed present petition after four or five months after coming to the house of her parents. The respondent contends that as counter blast to the HMOP 65/2014 filed against the petitioner the present petition has been pressed into service by the petitioner. The petitioner categorically states during the course of her cross-examination that after filing of HMOP 65/2014 by the respondent against her she has filed the present petition. The petitioner did not choose to complain in writing to any public authority about her alleged harassment by the respondent by leveling false allegations of unchastity to her whenever her

relatives were coming to the house of the respondent or ultimately after talking with one of her relatives over telephone, at any point of time after coming from the house of the respondent. The circumstance of the case probabalises that filing of HMOP 65/2014 by the respondent against the petitioner had prompted to the present petition. The *ratio* of the judgments reported in **AIR 2014(NOC) 372 (BOM.)** between **Rachana Oswald Malhotra/ D'Silva Vs. Oswald Fredrick D'Sivas alias Amar of Mumbai**, and in **2016(3) LS 129 between K.Sowmya Vs. The Regional Passport Officer and another** are not applicable to the facts of this case and with due respect not followed.

10. Accordingly, in view of forgoing discussion this Court hold that the petitioner has failed to establish she was subjected to domestic violence by the respondent. Therefore, it is held that the petitioner is not entitled to claim any of the reliefs prayed by her. Point answered accordingly against the petitioner and in favour of the respondent.

11. In the result, petition is dismissed.

Dictated to the Personal Assistant, transcribed by him, corrected and pronounced by me in open Court, this the 2nd day of November, 2016.

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

//APPENDIX OF EVIDENCE//

:- WITNESSES EXAMINED :-

For Petitioner

PW1 : T.Sai Kuari

PW2 : D.Audishesu

For Respondent:

RW1 : T.Vamsi @ Vamsi Krishna

RW2 : T.Kondaiah

RW3 : D.Yedukondalu

// DOCUMENTS MARKED //

For Petitioner: -Nil-

For Respondent:

Ex.R1 : Certified copy of Document No. 7589/1988

Ex.R2 : Certified copy of Document No. 3205/2006

Ex.R3 : Certified copy of Document No. 7306/2006

Ex.R4 : Certified copy of document No. 3204/2006

Ex.R5 : Property Tax demand bill for the year 2016-17

Ex.R6 : Property Tax payment receipt along with the water Tax payment receipt

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

// True copy //

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