

**IN THE COURT OF III ADDITIONAL JUDICIAL MAGISTRATE OF I CLASS :::  
ONGOLE**

PRESENT : SMT. M.ANURADHA,  
III ADDL. JUDL. MAGISTRATE OF I CLASS, ONGOLE.

Friday, the 27<sup>th</sup> day of April, 2018.

**DOMESTIC VIOLENCE CASE NO.20/2014**

BETWEEN :

Velaga Lakshmi Rajeswari, W/o.Siva Sambasiva Rao,  
aged 27 years, D/o.P.Subba Rao, r/o.Karavadi Village,  
Ongole Mandal.

**... PETITIONER**

A N D

1. V.Siva Sambasiva Rao, S/o.Nageswara Rao, aged 33 years,  
Vejendla Village, Chebrolu Mandal, Guntur District.  
322/3223, Phil Regiment, C/o.56 A.P.O.
2. V.Nageswara Rao, S/o.Sri Ramulu, aged 60 years,  
Vegendla Village, Chebrolu Mandal, Guntur District.
3. V.Venkayamma, aged 55 years, Vegendla Village.
4. Kanneboina Lakshmi, W/o.Pulla Rao, aged 30 years,  
Dhamarapalli Village, Thatikonda Mandal, Guntur District.

**... RESPONDENTS**

This petition coming on 09-03-2018 for final hearing before me in the presence of *Sri Y.Sunil Kumar and Sri K.Sankar Kumar, Advocates for Petitioner and of Sri K.Siva Nageswara Rao, Advocate for Respondents*, and upon perusing the material available on record, and upon hearing the arguments and having stood over for consideration, till this day this Court delivered the following :

**O R D E R**

1. The complainant/aggrieved person filed this application U/Sec.12 r/w.18, 19 and 20,22 of the Protection of Women from Domestic Violence Act, 2005 (herein after referred as DV ACT for brevity) by the petitioner against the respondents 1 to 4.

2. Brief averments of the complaint are as follows :

The marriage of the aggrieved person and R1 was performed on 22-03-2009 at Vejendla Village of Guntur District and at the time of marriage the parents of the aggrieved person gave Rs.1,50,000/- cash, gold ornaments weighing about 20 sovereigns and Ac.0-02 ½ Cents of house site at Ongole towards dowry to R1. It is averred that aggrieved person resided with R1 at Vejendla Village for some period and thereafter R1 put up family in Gwalior, Madhya Pradesh where R1 and his parents R2 and R3 caused acts of domestic violence by insisting the aggrieved

person to sell the land at Ongole and on that the aggrieved person informed the same to her father. It is further averred that the father of the aggrieved person instead of selling the same gave Rs.5,00,000/- cash to R1. It is averred that during the stay of the aggrieved person at Vejendla Village, R1 used to beat her by demanding additional dowry, so also the sister of R1 i.e. R4 also harassed her and later R1 shifted family to Dehradun and there also R1 harassed the aggrieved person by demanding additional dowry and on that the aggrieved person returned back to her parents house at Karavadhi Village and gave report to Ongole Taluq Police and on that there was a counseling held and later the aggrieved person gave birth to a female child. Further, it is averred that even after birth of the baby R1 did not come to see the baby. It is averred that the elder brother of R1 namely, Venkateswarlu requested the aggrieved person to attend mediation and on that the aggrieved person attended the said mediation, but R1 and the other respondents did not come for mediation. It is alleged that R1 totally neglected and deserted the aggrieved person and on that she waited for 10 days, but R1 did not turn to take back the aggrieved person and R2 and R3 did not allow the aggrieved person to their house and as such the aggrieved person gave report to Ongole Taluq Police.

Thus the petitioner filed this application seeking protection order U/Sec.18, residential order U/Sec.19, monitory reliefs U/Sec.20 and compensation U/Sec.22 of Protection of Women from Domestic Violence Act, 2005.

3. R1 filed counter. R2 and R3 filed a separate counter. R4 was set exparte.

4. On perusal of record, the contents the counters of R1 and R2 & R3 are one and the same.

5. Brief facts of the counter of the respondents are as follows :

The respondents denied the allegations laid by the aggrieved person in this application. The respondent admitted the marriage between the aggrieved person and R1. It is submitted that by the time of marriage R1 was working in Madhya pradesh, that after the marriage for some time he resided at Vejendla Village and thereafter he put up family in Madhya pradesh and stayed there for six months,that

R1 was transferred to Dehradun, that while shifting family R2 attended with them and stayed with them in Dehradun for about 10 days and later R2 returned to her village. It is further submitted that both the aggrieved person and R1 used to visit Vejendla Village once in six months and both of them lived happily for two years and later R1 and the aggrieved person came to Vejendla Village as R1 was asked to vacate the quarters in Dehradun and they stayed at Vejendla Village for one month and as there was no allotment of quarter in Dehradun ,R1 and the aggrieved person reached Karavadhi Village and later R1 returned to Dehradun and thereafter R1 informed to the aggrieved person to join him in Dehradun as he secured quarter and on that the aggrieved person with her parents came to Dehradun. It is pleaded that the parents of the aggrieved person stayed in Dehradun for eight months and thereafter the aggrieved person reached her parents house at Karavadhi Village while carrying eighth month pregnancy. It is pleaded that R1 gave ATM card to the aggrieved person as she requires financial aid. It is further averred that the aggrieved person having reached Karavadhi Village lodged complaint with police against R1 for the reasons best known to her. It is pleaded that knowing about the birth of baby, the parents of R1 went to Karavadhi Village and saw the baby and requested the aggrieved person to join with them at Vejendla Village with new baby and on that the aggrieved person stayed there for three days and later R1 stayed at Karavadhi for one week and later R1 and the aggrieved person went to Thallur Village to attend one function and stayed there for 10 days where R1 requested the aggrieved person to come with him to Vejendla Village, but the aggrieved person refused to do so and returned to her parents house at Karavadhi Village and lodged report to the police and it was registered for the offences U/Sec.498-A of I.P.C. and U/Sec.3 and 4 of Dowry Prohibition Act and on that R1 was arrested by the police and remanded to judicial custody. It is submitted that the aggrieved person is not interested to stay with R1 at his work places and she is being interested to stay at her parents house. The respondents plead that they neither took any dowry nor demanded any amounts from the aggrieved person and her parents and no such incidents taken place as alleged by the aggrieved person in the application. The respondents plead that R1 is ready and willing to receive the aggrieved person to his life and thereby prays to dismiss the complaint.

6. During the course of enquiry, PW1 was examined and Ex.P1 to Ex.P5 were marked on behalf of the petitioner. On the other hand, RW1 was examined and no document were marked on behalf of the respondents.

7. Heard both sides.

The learned counsel for the aggrieved person submits that PW1 resided with the respondents 1 to 4 in a shared household at Vejendla (Guntur Dst), and with R1 at Gwalier(M.P)Dehradun and Karavadi(Prakasam Dst) and now PW1 was forced to stay at her parents house due to acts of the domestic violence by R1 to R4 and as such PW1 is entitled to the reliefs claimed.

The learned counsel for the respondents' submits that the respondents never committed any acts of domestic violence against PW1, that PW1 never stayed with R2 to R4 at any point of time and as such the complaint is not maintainable against R2 to R4. The learned defence counsel further submits that PW1 filed M.C. No.2/2015 claiming maintenance and it was dismissed as not pressed by the aggrieved person and even R1 has been sending Rs.8,600/- per month to PW1 and thereby the complaint is devoid of merits.

8. Now, the points for consideration are :

1. Whether the respondents 1 to 4 committed any acts of domestic violence against the petitioner/Aggrieved person ?
2. *Whether the petitioner/ Aggrieved person is entitled for the reliefs as prayed for for ?*
3. *To what relief ?*

9. **POINT NO.1 :**

***Whether the respondents 1 to 4 committed any acts of domestic violence against the petitioner/ Aggrieved person ?***

The aggrieved person is examined as PW1. In her chief affidavit, PW1 reiterated the contents of the report before the Protection Officer. The report was marked as Ex.P1, dated 28-07-2014. Form-I of Domestic Incident report issued by the Protection Officer, dated 08-10-2014 is marked as Ex.P2. Ex.P2 disclose the entire details of the respondents and the aggrieved person and the acts of the

domestic violence alleged by PW1 against the respondents and the reliefs claimed by PW1 from the respondents. The Protection Officer also submitted Form - II report, dated 08-10-2014 and Form - III affidavit given by PW1 which are marked as Ex.P3 and Ex.P4 respectively. The Protection Officer also filed counseling report under Ex.P5. Ex.P5 discloses that the Protection Officer gave several adjournments for appearance of the respondents for counseling, it was only on dt: 05-08-2014 R1 and R2 attended for counseling and on the subsequent dates on 12-08-2014 ; 06-09-2014 only PW1 attended for counseling. The respondents not choosen to attend for the counseling and on that on 06-09-2014 the Protection Officer closed the counseling and submitted Domestic Incident Report to this court.

10. There is no dispute to the fact that the aggrieved person is the legally wedded wife of R1, R2 and R3 are the parents of R1 and R4 is the sister of R1. PW1 claims that her parents gave Rs.1,50,000/- cash, Ac,0-02 ½ Cents of site at Ongole and gold articles to R1 towards dowry during her marriage. However, except her self-serving statement, PW1 not produced either oral or documentary evidence to prove the alleged payments to R1.

11. The learned counsel for the respondents filed a judgment reported in **(2007) DMC 545 Smt. Neera Singh vs The State (Govt. of Nct of Delhi)** wherein Hon'ble Delhi High Court held at para No.4 that :

***“ Now-a-days, exorbitant claims are made about the amount spent on marriage and other ceremonies and on dowry and gifts. In some cases claim is made of spending crores of rupees on dowry without disclosing the source of income and how funds flowed. I consider time has come that courts should insist upon disclosing source of such funds and verification of income from tax returns and police should insist upon the compliance of the Rules under Dowry Prohibition Act and should not entertain any complaint, if the rules have not been complied with. Rule 2 of the Dowry Prohibition (Maintenance of List of Presents to the Bride and Bridegroom) Rules, 1985 reads as under :***

***RULES IN ACCORANCE WITH WHICH LISTS OF PRESERNTS ARE TO BE MAINTAINED -***

***(1) The list of presents which are given at the time of marriage to the bride shall be maintained by the bride.***

**(2) The list of presents which are given at the time of the marriage to the bridegroom shall be maintained by the bridegroom.**

**(3) Every list of presents referred to in Sub-rule (1) or Sub-rule (2)-**

**(a) shall be prepared at the item of the marriage or as soon as possible after the marriage;**

**(b) shall be in writing;**

**(c) shall contain;**

**(i) a brief description of each present;**

**(ii) the approximate value of the present;**

**(iii) the name of the person who has given the present; and**

**(iv) where the person giving the present is related to the bride or bridegroom, a description of such relationship.**

**(d) shall be signed by both the bride and the bridegroom;**

12. In the present case on hand, except the self-serving statement of PW1 nothing discloses from the case facts that any such list of the alleged presented things were prepared.

13. PW1 testifies that during her stay at Dehardun and at Vejendla Village the respondents insisted her for additional dowry and thereby she was subjected for harassment both physically and mentally. PW1 further testifies that the respondents not even turn up to see her new born baby. PW1 testifies that even during her stay with her in-laws at Vejendla Village as customary practice, R2 and R3 used to switch off power to harass her and they threatened her to leave the baby at orphanage and that R1 forced her to leave their house. PW1 testifies that R4 being her sister-in-law also threatened that they are going to perform second marriage to R1 and thereby harassed her.

14. The evidence of PW1 discloses that due to unbearable torture of R1 to R3, PW1 was forced to stay at her parents house and that she also gave report against the respondents at Ongole Taluq Police station for the offences U/Sec.498-A of I.P.C. and U/Sec.3 and 4 of Dowry Prohibition Act. PW1 claims that R1 is getting salary of Rs.50,000/- per month by working in Indian Army as a driver and he got own lands

at Thalluru Village and also house property in Vejendla Village. In the cross examination, PW1 admits that she withdrew money from State Bank of India, Ongole on 31-10-2013 of Rs.29,000/- and in the month of July, 2013 she along with her mother and R1 travelled up to Vijayawada from there R1 went to Vejendla Village and she along with her mother went to Karavadhi Village for delivery of her child. PW1 admits in her cross examination that she has been receiving Rs.8,600/- per month towards maintenance from the salary of R1.

15. R1 is examined as RW1. RW1 testifies that R2 and R3 never stayed with RW1 and PW1. However RW1 clearly admits that his father accompanied them to Madhya Pradesh. RW1 testifies that his stayed with PW1 for three days with their parents at their village. Even, the stay of PW1 with R1 in the house of R2 and R3 at Vejendla Village is also not disputed. However, there is no evidence on record that R4 being sister-in-law of R1 stayed with RW1 and PW1 at Vejendla Village or Dehardun or in Madya Pradesh. In the absence of the proof of stay of R4 with RW1 and PW1 and R4 being a house wife, PW1 cannot claim any relief against R4.

16. The evidence of PW1 clearly discloses the acts of the domestic violence caused by R1 to R3 during her stay at her in-laws house. PW1 clearly testifies that for the acts committed by the respondents she was forced to stay at her parents house

17. On the other hand, except the bald statement of RW1 that PW1 refused to join him, there is no supportive oral or documentary evidence. During the course of arguments the learned counsel for the aggrieved person submits that R1 filed a petition in HMOP.No.35/2016 U/Sec.13 of Hindu Marriage Act seeking divorce from PW1 and the same was dismissed for default on 16-06-2017. It was not denied by the other side. Thus, it appears that it was R1 who claimed divorce from PW1. Even Ex.P5/counseling report discloses that the respondents did not evince any interest to appear before the Protection Officer for counseling. Though RW1 pleads that he made certain negotiations, but failed to prove the same.

18. The learned counsel for the respondents submits that the criminal case filed

by PW1 against the respondents for the offence U/Sec.498-A of I.P.C. ended in acquittal. Mere acquittal of the criminal case is not a ground to refuse the reliefs claimed by the aggrieved person. Even otherwise, the term Domestic Violence defined under DV Act is wider than the term cruelty defined U/Sec.498-A of I.P.C. The D.V. Act has been enacted to provide a remedy in Civil Law for protection of women from being victims of domestic violence and to prevent occurrence of domestic violence in the society. The DV Act has been enacted also to provide an effective protection of the rights of women guaranteed under the Constitution, who are victims of violence of any kind occurring within the family.

**19. Section 3 of the DV Act deals with "domestic violence" and reads as under:**

"3. Definition of domestic violence.- For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it-

- a. harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or
- b. harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or
- c. has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or (d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

Explanation I.- For the purposes of this section,-

- i. "physical abuse" means any act or conduct which is of such a nature as to cause bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal intimidation and criminal force;
- ii. "sexual abuse" includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman;
- iii. "verbal and emotional abuse" includes-
  - a. insults, ridicule, humiliation, name calling and insults or ridicule specially with regard to not having a child or a male child; and
  - b. repeated threats to cause physical pain to any person in whom the aggrieved person is interested.
- iv. "economic abuse" includes-
  - a. deprivation of all or any economic or financial resources to which the aggrieved person is entitled under any law or custom whether payable under an order of a court or otherwise or which the aggrieved person requires out of necessity including, but not limited to, household necessities for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by the aggrieved person, payment of rental related to the shared household and maintenance;



b. disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the aggrieved person has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the aggrieved person or her children or her stridhan or any other property jointly or separately held by the aggrieved person; and

**c. prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household.**

Explanation II.- For the purpose of determining whether any act, omission, commission or conduct of the respondent constitutes "domestic violence" under this section, the overall facts and circumstances of the case shall be taken into consideration.

20. In order to examine as to whether there has been any act, omission, or commission or conduct so as to constitute domestic violence, it is necessary to examine some of the definition clauses under Section 2 of the DV Act.

**Section 2(a) of the DV Act defines the expression "aggrieved person" as follows:**

"2(a). "Aggrieved person" means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent."

**Section 2(f) defines the expression "domestic relationship" as follows:**

2(f). "Domestic relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family.

21. The petitioner is involved in a domestic relationship with the respondents by marriage, as referred Section 2(f) of DV Act. One of the most important invariable consequences of marriage is the reciprocal support and the responsibility of maintenance of the common household, jointly and severally. Marriage as an institution has great legal significance and various obligations and duties flow out of marital relationship,

22. Admittedly, now PW1 is residing with her newly born baby at her parents

house. Under this Act, **prohibition or restriction to continued access to resources or facilities which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household amounts to Domestic Violence.** Thus as discussed supra, PW1 is deprived to her access to the matrimonial house and it itself amounts to domestic violence. Thus, R1 to R3 committed acts of the domestic violence against PW1. As the aggrieved person failed to prove to her stay with R4 under one roof, the aggrieved person can not claim any relief against R4.

**23. Point No.2:**

***Whether the petitioner/ Aggrieved person is entitled for the reliefs as prayed for for ?***

Thus, as discussed supra, the aggrieved person is certainly entitled for the relief of protection order U/Sec.18 of the Act and thereby R1 to R3 are hereby ordered to be prohibited from causing any acts of the domestic violence against the petitioner. The aggrieved person also claims rental accommodation. Considering the facts and circumstances and the status of the parties, the petition is allowed partly, directing R1 to pay Rs.2,000/- per month to the petitioner towards her rental accommodation U/Sec.19 of the Act.

24. Admittedly, the aggrieved person is receiving Rs.8,600/- per month from R1 towards her maintenance. In the cross-examination RW1 admits that he is working in Army and getting salary of Rs.40,000/- per month. RW1 admits that he is having Ac.02-00 Cents of agricultural land. By considering the means of R1 and necessities of the aggrieved person and her minor child and also considering the quantum of maintenance already receiving by PW1 at Rs.8,600/- per month, it is just and necessary to grant an amount of Rs.3,000/- to the aggrieved person towards maintenance U/Sec.20 of the Act.

25. Further, for the mental agony of depriving her access to the conjugal life, the aggrieved person is entitled to receive compensation of Rs.50,000/- from R1.

26. **POINT NO.3 :*****To what relief ? :***

In the result, petition is allowed in part, prohibiting R1 to R3 from causing any acts of domestic violence against the aggrieved person. R1 is directed to pay Rs.2,000/- per month to the aggrieved person towards rental accommodation from the date of this order and also to pay Rs.3,000/- per month to the aggrieved person towards maintenance from the date of this order. Further, R1 is directed to pay Rs.50,000/- to the aggrieved person towards compensation within three months from the date of this order. The respondent is further directed to pay the respective maintenance amounts on or before 10<sup>th</sup> date of every succeeding month. The petition against R4 is dismissed.

*Dictated to the Stenographer of this court, transcribed by him, corrected and pronounced by me in open court, this the 27<sup>th</sup> day of April, 2018.*

Sd/-M.Anuradha  
**III ADDL. JUDL. MAGISTRATE  
 OF I CLASS, ONGOLE.**

**// Appendix of evidence //**  
Witnesses examined

For Petitioner :

PW1 : Velaga Lakshmi Rajeswari.

For Respondents :

RW1 : Velaga Siva Samba Siva Rao.

Documents marked

For Petitioner :

Ex.P1 – Report of PW1 to the Protection Officer, dated 28-07-2014.  
 Ex.P2 – Form – I of Domestic Incident Report issued by the Protection Officer, dated 08-10-2014.  
 Ex.P3 – Form – II Report, dated 08-10-2014.  
 Ex.P4 – Form – III affidavit of the petitioner, dated 08-10-2014.  
 Ex.P5 – Counseling Report.

For Respondents :

- N I L -

Sd/-M.Anuradha  
**III A.J.M.F.C.**

// True copy //

III-Addl.Judl.Magistrate of I-Class  
 Ongole