

**IN THE COURT OF THE SPL. JUDL. MAGISTRATE OF I CLASS,
EXCISE COURT, ONGOLE.**

Present: Sri **Shaik Ibrahim Sharief**,
Special Judicial Magistrate of I Class, Excise Court, Ongole.

Tuesday, this the 27th day of September, 2016.

D.V.C.No. 01 of 2016.

Between:

Gunde @ Yedluri Aparna,
W/o. Gunde Prasanna Babu,
D/o. Ydluri Israel, aged 22 years,
Hindu, House wife,
R/o. H. Nidamanuru Village,
Naguluppalapadu Mandal,
Prakasam District.

... Petitioner.

and

1. Gunde Prasanna Babu, S/o. Josef,
aged 26 years, Hindu, Police Constable,
R/o. Vijayanagar Colony, Chirala,
Prakasam District.

2. Gunde Ankamma, W/o. Josef,
aged 55 years, Hindu, House wife,
R/o. Vijayanagar Colony, Chirala,
Prakasam District.

3. Sunkisala Vasanth Kumari,
W/o. Prabhakar, aged 29 years,
Hindu, House wife, R/o. S.C.Colony,
Kondareddi Palli,
Hanumanthunipadu Mandal,
Prakasam District.

...Respondent.

This case coming on 26.09.2016 for final hearing before me in the presence of Sri **K. Brahma Reddy**, Advocate for Petitioners and of Sri **Y. Sunil Kumar**, Advocate for respondent and upon perusing the material available on record and having stood over for consideration till this day, this court made the following:

// O R D E R //

1. This application is filed under section 12(1) of Protection of Women from Domestic Violence Act, 2005 seeking reliefs Under Section.18 to 20 and 22 of the Act against the Respondents 1 to 3.

2. The case of the petitioner in brief is that :

The marriage of the petitioner with the 1st Respondent was performed at IMA function Hall, Kothapeta, Main road, Chirala on 13.08.2014 as per Hindu caste custom and tradition. At the time of marriage on the demand of the Respondents, the parents of the petitioner gave Rs.5,00,000/-towards dowry, Rs.1,50,000/- towards marriage expenses and 6 sovereigns of gold to the 1st Respondent. Immediately after the marriage they put up their family at the house of the Respondents at Vijayanagar Colony of Chirala. Since, then, it has been the shared household of the petitioner. The 1st Respondent has been working as a police constable in Chirala I-Town Police Station and the sister-in-law of the petitioner stayed at her maternal home up to three months of the petitioner's marriage to the 1st Respondent. From the beginning the 1st Respondent used to come to home in drunken state and used to beat the petitioner black and blue and used to demand additional dowry of Rs.3,00,000/-. The Respondents 2 and 3 used to abuse the petitioner with unparliamentary words by demanding additional dowry. The petitioner bore the harassment for some time and later informed the same to her parents, who in turn informed the same to the elders by name Rasuri Premanandam and Mallela Janson, but the Respondents refused to heed their words and continued to demand additional dowry. Thereafter, again the parents of the petitioner sent elders by name Yendluri Samiyelu and Lama Suresh to pursue the Respondents, but the 1st Respondent declared that he did not like the petitioner and he did not want her, unless she gave additional dowry of Rs.3,00,000/- immediately or else they can take away the petitioner. Therefore, the parents of the petitioner took

the petitioner to their home from the shared house hold at Vijayanagar Colony, Chirala on 11.09.2015. Since then, the petitioner has been living with her parents. The 1st Respondent is working as police constable and earning more than Rs.30,000/- as a salary beside that he is having landed property of more than 3 acres and the permanent house at Pernamitta Village. The Respondent adamantly refusing the petitioner and left her to her sufferance. Hence, this petition.

3. The 1st Respondent filed counter which is being adopted by the Respondents 2 and 3. The brief averments of the counter of the 1st Respondent are that:

The Respondents denied the averments of the petition except admitting the 1st Respondent marriage with the petitioner and that he is working as police constable. He further stated that no cash and no gold were given by the parents of the petitioner and there is no demand of dowry and other things by the Respondent. The 3rd Respondent is resident of Kondareddypalli of Kanigiri Mandal and she used to visit the house of the Respondent No.1 and 2 rarely on functions. The 1st Respondent is not having in the habit of consuming alcohol and he never ill treated the petitioner. The 2nd Respondent never abused the petitioner. Omnibus allegation is made against the 2nd Respondent, who is a widow taking shelter with her elder son. The Respondents never demanded additional dowry of Rs.3,00,000/-. The parents of the petitioner never sent elders Rasuri Premanandam, Mallela Janson to the Respondents for mediation. The petitioner herself deserted the 1st Respondent for taking coaching for the TET examination and never chooses to join the 1st Respondent till today.

The 1st Respondent made all efforts for reunion and requested the petitioner to join him, but the petitioner put deaf ear. The petitioner herself deserted the 1st Respondent for her studies and failed to get the desired result, as such the petitioner is making unwarranted and unscrupulous allegations against the Respondents. The 1st Respondent is working as a constable and his basic salary is Rs.16,400/- and of out the same the 1st Respondent has to maintain his old widowed mother and unemployed brother. The Respondents lived in a rented house, as quarters are not allotted to the 1st Respondent. Therefore, the claim of the petitioner that the 1st Respondent is earning Rs.30,000/- per month having assets are utterly false. The maintenance claim of Rs.10,000/- per month by the petitioner is filed only to harass the Respondents. The petitioner is not entitled for maintenance, as she herself left the 1st Respondent to pursue her studies. The petitioner is not entitled for maintenance and compensation. The Respondents never treated the petitioner with any cruelty and never subjected her to harassment. The demand of additional dowry is a story put forth by the petitioner to throw mud on the Respondents. The petitioner is studying her degree at Ongole on her own accord. The petitioner is not intended to join with the 1st Respondent and she wanted to live on her own. The petitioner suppressed the filing of Criminal case against the Respondents. The 1st Respondent is ready to take back the petitioner to his matrimonial fold. Therefore, requested the court to dismiss the petition.

4. During the course of enquiry on behalf of the petitioner, PWs.1 to 3 were examined and got marked Ex.P.1. On behalf of the Respondents RWs.1 and 2 were examined and no document is marked.

5. Heard the learned counsel for the petitioner and learned counsel for the Respondents.

6. Perused the material available on record.

7. Now the point for consideration is:

Whether the petitioner is entitled for the reliefs sought for against the Respondents 1 to 3 ?

8. **POINT :-**

There is no dispute in respect of marriage of the petitioner with the 1st Respondent held on 13.08.2014 at IMA function hall at Chirala as per the Hindu Caste Custom and Tradition. It is the evidence of PW.1 that immediately after the marriage herself and 1st Respondent put up family at Vijayanagar Colony, Chirala and they lead happy marital life for one month. It is the contention of the 1st Respondent that after the marriage he has applied one month leave and went to his in-laws house and resided there for one month. PW.1 in her cross-examination though admitted that the 1st Respondent applied for one month leave after the marriage, but she denied the suggestion that the 1st Respondent by applying one month leave stayed along with her at B. Nidamanuru Village. PW.3 the alleged elder of petitioner in his cross-examination stated that the 1st Respondent stayed at the house of the parents of the petitioner in their Village for one month after the marriage. So, the evidence of PW.1 that immediately after the

marriage they put up family at Chirala and led happy marital life for one month is false.

09. The petitioner is seeking the reliefs Under Section.18, 19, 20 and 22 of the Domestic Violence Act. In order to grant the reliefs sought by the petitioner, the petitioner must able to establish the Domestic Violence on her as defined under Section.3 of the Act. For better appreciation of the evidence on record, it is necessary to extract here **under Section.3 of the Domestic Violence Act.**

For the purpose of this Act, any act, omission or commission or conduct of the Respondent of the respondent shall constitute domestic violence in case it:

(a) Harms or injuries 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 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.

10. It is the evidence of PW.1 that after 3 months of their marriage the disputes arose in between 1st Respondent and herself. The 1st Respondent in drunken state used to abuse her in filthy language and demanded her for additional dowry of Rs.3,00,000/-. The 1st Respondent used to beat her. In her cross-examination PW.1 stated that :

“ By the time of marriage I was studying 2nd year Teacher Training Course at Medarametla College. Even after the marriage by staying at Chirala along with the 1st Respondent, I used to attend college at Medarametla. After one month of the marriage, I attended Teacher Training Course Exam at St. Xaviers College, Ongole. I attended for the examination in the month of September, 2014. Two months thereafter I joined at Spoorthy Coaching Center at Nellore for the purpose of coaching classes for D.S.C. Examination”.

11. From this admission of PW.1, it is clear that by the time of her marriage with the 1st Respondent she was studying Teacher Training Course. She categorically stated that in the month of September, 2014 she attended the examinations at St. Xaviers College, Ongole. The marriage itself was held on 13.08.2014. The petitioner is not disputing about the date of marriage. Since, the petitioner herself has categorically admitted that even after the marriage by staying at Chirala she attended Teacher Training Course at Medarametla. This itself shows that there were no any disputes in between the petitioner and the 1st Respondent. PW.1 further stated that two months

thereafter she joined at Spoorthy Coaching Center, Nellore for the purpose of taking classes for D.S.C. Examination. The said D.S.C. examination was conducted by the Government in the month of May, 2015. These admissions of PW.1 categorically proves that PW.1 after completion of the Teacher Training Course she went for taking coaching for appearing D.S.C examinations to be conducted by the Government in the month of May, 2015. Therefore, the evidence of PW.1 that the disputes arose between herself and the 1st Respondent in the 3rd month after the marriage is not believable.

12. It is the contention of the learned counsel for the Respondent that even after attending D.S.C. examination in the month of May, 2015 the petitioner has not turned up to the 1st Respondent. She denied the suggestion that after completion of coaching and after attending D.S.C coaching in the month of May, 2015 she went to the parents house at B. Nidamanuru has been staying there. But in the later part of her cross-examination PW.1 stated that at present she is studying second year B.Sc., in A.K.V.K. College at Ongole. PW.1 was cross-examined on 09.08.2016 and by the time she was studying 2nd year B.Sc, that means she joined the 1st year B.Sc during the academic year 2015-16 which commences in the month of June, 2015. This admission of PW.1 lend support to the contention of the 1st Respondent that even after the attending D.S.C examination in the month of May, 2015 the petitioner has not joined with the 1st Respondent.

13. The main allegation of the petitioner against the 1st Respondent is that the 1st Respondent in drunken state used to beat her, abused

her and demanded additional dowry of Rs.3,00,000/-. PW.1 in her evidence stated that her parents sent elders by name Rachuri Premanandam and Mallela Jonson before whom the 1st Respondent stated that as her parents have not provided additional dowry, as such he need not require her. The petitioner examined one Rachuri Premanandam as PW.2. PW.2 in his evidence stated that himself and Jonson of their locality went for mediation to the 1st Respondent, then the 1st Respondent tried to come upon them. The 2nd Respondent abused the parents of the petitioner as well as themselves. One week thereafter the elders of the Respondent informed to the father of the petitioner to take back the petitioner to his house, as the 1st Respondent necked out the petitioner and she waited out side of the house for one night. PW.2 has improvised the evidence of PW.1 and stated that the elders of the Respondent informed to the father of the petitioner to take back the petitioner as 1st Respondent necked out of the house and she waited the out side of the house, which is not stated by PW.1 in her evidence or in her petition.

14. According to PW.1 in the presence of PW.2 and one Janson the 1st Respondent stated that as his parents have not provided additional dowry he need not require her. PW.2 did not state what PW.1 has stated in her evidence. On the other hand, PW.2 stated what PW.1 has not stated in her evidence, which is a serious allegation made against the 1st Respondent. If really, the serious thing was happened PW.1 ought to have stated said fact either in her petition or in her evidence before the court. However, in his cross-examination PW.2 stated that he does not know the family affairs of the Respondent after the

marriage. This itself shows that PW.2 is speaking false hood. PW.2 further stated in his cross-examination that he does not know that after the marriage the 1st Respondent resided along with the petitioner at her parents house for one month. If really, PW.2 is the elder of the Village, he might have knowledge about the things that were going on in between the petitioner and the 1st Respondent. PW.2 further stated in his cross-examination that he does not know at the time of marriage whether the petitioner has been continuing her studies or not and he does not know further studies of the petitioner after the marriage. So, PW.2 does not know anything about the facts in between the petitioner and the 1st Respondent.

15. It is the evidence of PW.1 that the 1st Respondent questioned her about the additional dowry and continued to harass her by assaulting her. Again she informed her parents, then her parents sent elders by name Samuel and Lama Suresh and inspite of persuasion by the elders, the 1st Respondent did not change his attitude.

16. The petitioner examined one Yendluri Samuel as PW.3, who said to have acted as an elder for settlement. PW.3 in his evidence stated that by the date when they went to the house of 1st Respondent the petitioner was necked out on the previous day night at 12 midnight. By the time they went to the house of 1st Respondent, the petitioner was out side the house then himself and one Lama Suresh tried to mediate the matter, the 1st Respondent came upon them. Then, they tried to talk to 2nd Respondent, she replied that the 1st Respondent already stated about the demand of additional dowry of Rs.3,00,000/-.

The 2nd Respondent further stated that without giving additional dowry of Rs.3,00,000/- she will not allow the petitioner into the house. As such, they have taken back the petitioner and left her at her parents house. PW.1 herself did not state this incident in the petition or in her evidence before the court, that the 1st Respondent has necked out her in the midnight and she stayed out side the house during the night time and by the time when the elders came she was out side the house. However in his cross-examination PW.3 stated that he came to know about the harassment of the 1st Respondent through the father of the petitioner. He further stated that he visited the 1st Respondent in the month of September, 2015.

17. According to the petitioner she is studying B.Sc during the academic year i.e. 2016-17. She must have joined 1st year B.Sc at A.K.V.K.College at Ongole during the academic year 2015-16. The academic year will commence in the month of June. Therefore, by the month of September, 2015 the petitioner was not at all present at the house of the 1st Respondent at Chirala. It is not the case of the petitioner that she has joined B.Sc degree by staying at Chirala in the house of 1st Respondent. Therefore, the evidence of PW.3 that he visited the house of the 1st Respondent in the month of September, 2015 along with Lama Suresh and found PW.1 out side the house, as she was necked out during midnight by the 1st Respondent is not at all believable.

18. On the other hand, PW.3 in the cross-examination stated that he did not try to send the petitioner to the Police Station to lodge a report.

If really, the petitioner was necked out during midnight, the petitioner is not an illiterate woman, she is educated and she might have went to the Police Station and ought to have lodged a report at least with the help of PW.3. But PW.1 did not do so. Further PW.3 admitted that while the petitioner was at Nidamanuru at her parents house, the 1st Respondent used to visit the petitioner. If really any domestic violence has occurred as stated by the petitioner and if really the 1st Respondent demanded additional dowry of Rs.3,00,000/- and used to beat her in a drunken state, then how can the 1st Respondent visit his in-laws house at B. Nidamanuru Village.

19. On the other hand, it is the contention of the respondents that the 1st Respondent is a police constable, he used to attend his duties at odd hours, as the petitioner has developed hatred against him and stated that she does not know the duty hours of the police constable. Her father might have performed her marriage with a teacher, instead of constable.

20. RW.1 stated in his evidence that:

"Immediately after the marriage I joined with the petitioner by applying one month leave at her parents house at B. Nidamanuru Village. In the month of September, 2014 the petitioner attended Teacher Training Course Final Examinations. After completion of the examinations the brother of the petitioner brought her to Chirala. After joining him at Chirala the petitioner used to say that her father might have given her in marriage to a Teacher. In the month of November, 2014 a notification was issued for Teacher Selections, then I intended to join her at a coaching

center at Avanigadda, but in the meanwhile my father-in-law came and without my consent he has taken away the petitioner and joined her at Spoorthy Coaching Center, Nellore”.

PW.1 herself in the cross-examination admitted about her attending Teacher Training Course and after the completion of that she joined at Spoorthy Coaching Center, Nellore for D.S.C examinations. RW.1 further stated in his evidence that in the month of November, 2015 he fell sick and joined in the hospital for one month and inspite of informing the said fact, the petitioner has not turned up. In the month of January, 2016 the petitioner has lodged a report in II-Town Police Station at Chirala for the offence Under Section.498-A of I.P.C. In his cross-examination RW.1 stated that there is no fixed timings for his duty. After attending to his duties he will stay at his residence.

21. The Respondent examined the caste elder at Chirala as RW.2. In his evidence RW.2 stated that he acted as elder for the marriage of 1st Respondent. As the petitioner is studying teacher training course and with a hope that the petitioner will get government job and lead happy life, as such no dowry amount was received by the 1st Respondent. Since PW.1 herself categorically admitted that at the time of marriage she was under going Teacher Training Course and after that she has taken coaching at Spoorthy Coaching Center at Nellore for D.S.C examination. This lends support to the contention of the 1st Respondent that the 1st Respondent might have married the petitioner without receiving any dowry, since the 1st Respondent is an employee. Added to that PW.1 in her cross-examination stated that her father is an

agriculturist and he was not having any agricultural land. When the father of the petitioner herself is not owning any land and he is an agriculturist then how can he give a dowry of Rs.5,00,000/- besides Rs.1,50,000/- towards marriage expenses and also 6 sovereigns of gold to the 1st Respondent at the time of marriage. In his cross-examination RW.2 categorically stated that he know the family affairs of the Respondent, as he is caste elder. He got acquaintance with the 1st Respondent for the last 4 years.

22. However, PW.1 categorically stated in her evidence that she is ready and willing to join the 1st Respondent, if he changes his attitude. If really PW.1 was subjected to domestic violence, certainly PW.1 will not express her willingness to join with to Respondent No.1. PW.1 did not state that she will join 1st Respondent, if he withdraw his demand of additional dowry of Rs.3,00,000/-. This itself shows that there is no demand of additional dowry by 1st Respondent.

23. The petitioner herself categorically stated that now she is residing at Ongole by studying 2nd year B.Sc degree. In order to grant the relief Under Section.18 of the Domestic Violence Act, the petitioner must able to show that the 1st Respondent is committing any act of Domestic Violence by going to her college or at the place of her residence. The petitioner did not show any one of the acts stated under Section.18 to grant protection orders. On the other hand the Respondent could able to establish that the petitioner herself voluntarily left the company of the 1st Respondent for the purpose of prosecuting her education.

24. In these circumstances, this court is of the considered opinion that the petitioner is not entitled to any one of the reliefs sought by her. Accordingly, this point is answered.

25. In the result, the petition is dismissed. There is no order as to costs.

Dictated to the personal assistant, transcribed by her, corrected and pronounced by me in open court, this the 27th day of September, 2016.

*Sd/- Sk. Ibrahim Sharief,
Spl. Judicial Magistrate of I Class,
Excise Court, Ongole.*

//APPENDIX OF EVIDENCE//

-: WITNESSES EXAMINED :-

For Petitioner

P.W.1 : G. Aparna
P.W.2 : R. Premanandam
P.W.3 : Y. Samuel

For Respondents:

RW.1: Gunde Prasanna Babu
RW.2: D. Ananda Rao

// DOCUMENTS MARKED //

For Petitioner:

Ex.P.1 : Marriage Photograph

For Respondents: **NIL**

*Sd/- Sk. Ibrahim Sharief,
Spl.J.F.C.M.
Excise Court, Ongole.*

// True Copy //

Spl. Judl. Magistrate of First Class,
Ongole.