

**IN THE COURT OF THE II ADDL. JUDICIAL MAGISTRATE OF I CLASS,
ONGOLE.**

Present: Smt.N.Sarada,
II Addl. Judl. Magistrate of First Class, Ongole.

Tuesday, this the 6th day of March, 2018

D.V.C.No.22/2014.

1. Boyapati Bharathi W/o Srinivasa Rao,
Aged about 38 years, Housewife, Harijan Mala
Resident of Devudu chervu, Ongole
2. Boyapati Shanmuka Sri S/o Srinivasa Rao
Aged four years being minor rep. By its Guardian and mother
Boyapati Bharathi i.e., 1st petitioner here in
.. Petitioners.

Vs.

1. Boyapati Srinivasa Rao, S/o Rangaiah
Hindu, kamma, aged 35 years, yedugundlapadu
Maddipadu mandalam, Prakasam District
... Respondents

This petition is coming on 23-02-2018 for hearing before me in the presence of Sri.K.Shankar Kumar Advocate for Petitioners and of Sri.P.Vengaiiah Advocate for Respondent upon perusing the oral evidence on record and upon perusing the arguments on both sides and having stood over for consideration till this day, this Court made the following:-

// ORDER //

1. This application is filed by the petitioners, Boyapati Bharathi (aggrieved person) U/Sec.12, 19,20 and 23 of Domestic Violence Act, 2005, against the respondent and to pay interim maintenance at the rate of Rs.6,000/- to the petitioners, direct the respondents to provide shelter to the petitioners in accordance with law

2. The case of the petitioner in brief is as follows:-

The petitioner submitted that on 30-11-2007 the respondent married the 1st petitioner at AMARAVATHI VILALGE Guntur in the presence of elders by name G.Sulochana, K.Sumani, N.Vijayalakshmi,G.Ramachandra Rao, after marriage they set up family at Devuducheruvu, Ongole.During their wed lock they were blessed with a male child i.e., 2nd petitioner. And further the petitioner submitted that she filed a complaint against the respondent for the offence U/sec.495, 498-A, 323, and 506 of IPC. And the petitioner was cheated was played fraud and 1st petitioner being

a virgin playing fraud that he is un married the respondent married the 1st petitioner gave a birth to a male child The xerox copy of the birth certificate of child in school admission application in Delhi Public school signed by the respondent as father agreeing to settle some properties to the child, the 2nd petitioner herein on agreement dt. 12-10-2012, Further the petitioner submitted that the respondent intentionally playing fraud on the petitioner. The respondent is doing finance business, real estate business and his income is nearly Rs.20,000/- per month and he will fully neglected the petitioners and the act of the respondent amounts to domestic violence and the petitioner failed to Hon'ble court grant maintenance to the petitioner at the rate of Rs.6000/- each per month and direct the respondents provide shelter to the petitioners.

03. On the other hand respondent filed a counter and denied all the allegations mentioned in the petition. In fact above 20 years back the respondent worked as compounder in KV Ramana Rao hospital. 1st petitioner used to visit the hospital, to take treatment for her small illness in that connection the respondent got acquaintance with the petitioner. Intimacy was developed between the petitioner and respondent resulting in this respondent developed illegal contact with the 1st petitioner resulting the birth of the 2nd petitioner, this respondent never married the 1st petitioner as alleged in the petition. The 1st petitioner had knowledge that this respondent was already married person with two children, subsequently at the request of the 1st petitioner this respondent lent an amount of Rs.1,50,000/- to the 1st petitioner on the pronote for the marriage expenses of the 1st petitioner brother by name K.Ramanadham. The wife of this respondent filed a suit in O.S.36/2011 on the file of I-AJJC, Ongole against this respondent for claiming maintenance. After commencement of the trial the respondent entered into compromise with his wife and Lok adalath award was passed in O.S.No.36/2011 under monthly maintenance of Rs.2000/- was awarded to his wife under the award a charge was created over the 0.27 cents of the land for due payment of the maintenance amount to his wife. The above compromise between this respondent and his wife, caused differences between the 1st petitioner and respondent on account of which connection between this respondent and 1st petitioner were totally severed as 1st petitioner is against this respondent compromising with his wife. As this respondent is having no avocation he was involved in financial problems he demanded the 1st petitioner to repay the above promissory note debt but the 1st petitioner failed to repay the same, Hence, this respondent was compelled to filed suit in O.S.29/2013 on the file of Prl. Senior civil

judge, Ongole the same was pending. On that the 1st petitioner bore grudge against the respondent and she made a false complaint against this respondent as it he married the petitioner, resulting in registered in false case against this respondent u/sec.495, 498-a, 323 506 of IPC in CC.No.33/2013 with false allegations. This respondent has no capacity to pay the amount as claimed in the petition. This respondent is not a position to pay any amount as he is suffering from BP and Sugar deceases. The petitioner is working as Agri gold commission agent and earning an amount of Rs. 15,000/- to 20,000/- per month and also petitioner having finance business with investment of Rs.6 to 7 lakhs.

04. Basing on the above pleadings the point for determination are as follows:

1. Whether the petitioner is entitled for residence orders ?
2. Whether the petitioner is entitled for maintenance?

05. Coming to the case on hand in order to grant reliefs sought by the petitioner that is either protection order or residence orders it has to be have established by the petitioner that domestic violence has been taking place against her by the respondents R1.

06. On the other hand the petitioner examined as P.w1, and she deposed that when she used to come to Ongole in course of time, the respondent came into contact with her and the respondent used to pester her to marry him she did not aware that the respondent is already married and the respondent never informed her that he is married and blessed with children. Accordingly on 30-1-2007 the respondent married P.W1 at Amarvathi village, Guntur District in the presence of elders during their wed lock they blessed with a male child the 2nd petitioner herein. And further the petitioner deposed that she was cheated played fraud that he is unmarried. The respondent married her and gave birth to a male child,. P.W1 submit the xerox copies of birth certificate and school admission application in Delhi Public School, the same was enclosed with the complaint on 21-3-2011, the respondent also executed a letter of undertaking to settle the properties to the child. The respondent intentionally played fraud on the 1st petitioner, and the 2nd petitioner who is born to him now left as an orphan. The respondent cannot escape of maintenance of the petitioner and the respondent willfully and intentionally neglected the petitioners, and the respondent is doing finance business, real estate business and his income is nearly Rs.20,000/- per

month. The respondent having married the petitioner and having gave birth to the 2nd petitioner and willfully neglected them the act of the respondents amounts to domestic violence and petitioner prays the Hon'ble court grant maintenance at the rate of Rs.6000/- each and also shelter. To prove her content, she filed marriage photo, the same is marked as Ex.P1. And birth certificate of 2nd petitioner under Ex.P2,.

07. On the other hand the respondent failed to adduce his evidence and also he failed to cross examine the P.W1. And coming tot he relief sought by the petitioner that is the maintenance to prove that respondent leaved the petitioner and 2nd petitioner as on orphan and the respondent willfully neglected the petitioner and her son and he failed to prove food, clothes, and shelter to the petitioner and her son and the petitioner submitted that the respondent is doing finance business real estate business and his income is nearly Rs.20,000/- per month. The respondent being a husband it is the duty of the respondent to look after the welfare of the petitioner and her son and further she filed some of the documents to show that the respondent is having capacity to pay the maintenance. On the other hand the respondent filed documents to show that he is suffering from Blood Pressure(BP), Diabetics (Sugar) etc.,. Considering the respondent health condition the respondent is directed to pay the maintenance of the petitioner for Rs.2,000/- per month and Rs.1,000/- to the 2nd petitioner.

08. coming to the relief sought by the petitioner that is shelter to prove this aspect the petitioner failed to produce the documents to show that the respondent is having a house in his name. So that the relief sought by the petitioner is dismissed.

09. In the result, the petition is partly allowed and the petitioner is hereby granted an amount of Rs.2,000/-(Rupees Two thousand only) per month to the 1st petitioner and Rs.1,000/-(Rupees one thousand only) to the 2nd petitioner total of Rs.3,000/- (Rupees Three thousand only) as interim maintenance to the petitioners. The maintenance shall have to be paid by the respondent from the date of this petition. The respondent is further directed to pay the maintenance amount to the petitioners on or before 5th of every succeeding month. The same shall be payable to the petitioners directly or to deposit the same in any nationalized bank account of the

petitioners or by depositing the same in the court so as to enable the same to be given to the petitioners. The rest of the claim is dismissed.

Dictated to the personal Assistant, transcribed by her, corrected and pronounced by me in Open Court, this the 6th day of March, 2018

Sd/-N.Sarada
II Addl. Judl. Magistrate of I Class
Ongole.

// APPENDIX OF EVIDENCE //
-: WITNESSES EXAMINED:-

For Petitioner :
P.w.1 : Boyapati Bharathi

For Respondents :

DOCUMENTS MARKED ON BEHALF OF PETITIONER.

Ex.P1: Marriage Photo

Ex.P2; Birth certificate of 2nd petitioner

DOCUMENTS MARKED ON BEHALF OF RESPONDENTS.

-NIL-

Sd/-N.Sarada
II-AMM.
Ongole

// True copy //

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