

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

Present: Sri J. Sravan Kumar

III Addl. Judl. Magistrate of First Class, Ongole

Thursday, the Twenty-first (21st) Day of July, 2016

D.V.C.No.16/2014

Between:

Pathan Bazidhunnisa, W/o. Shaik Shafiul Rahman,
aged 25 years, Muslim, Housewife, R/o. APHP Colony,
MIGH - 2, Ongole, Prakasam District

... **Petitioner**

And

1. Shaik Shafiul Rahman, S/o. Masthan Vali,
aged 30 years, Muslim, Lecturer,
2. Shaik Masthan Vali, S/o. Akla Bhakshu,
aged 60 years, Muslim, Self Employed,
3. Shaik Masthan Bi, W/o. Masthan Vali,
aged 50 years, Muslim, Housewife,
4. Shaik Shaahina, W/o. Pathan Sahfiulla Khan,
aged 26 years, Muslim, Housewife,
5. Shaik Shameem, D/o. Masthan Vali,
aged 23 years, Muslim, Student,

All are R/o. Nawab Mitta, Near Tent house,
Podili village and Mandal, Prakasam District

... **Respondents**

The petition coming on 24-06-2016 before me for final hearing in the presence of Sri K. Brahma Reddy, Advocate for the Petitioner and of 1st Respondent having remained exparte; petition against Respondents 2 to 5 was dismissed as not pressed, 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 present complaint filed by the petitioner U/s.12 (1) of Domestic Violence Act, 2005, against the respondents 1 to 5 to pass reliefs u/s.18, 19 and 20 in her favour.
2. The brief allegations of the petitioner are as follows:

R1 is the husband and R2 and R3 are in-laws, R4 and R5 are the sister-in-laws of the petitioner.

The petitioner is legally wedded wife of R1. Her marriage performed with 1st respondent on 05-05-2011 at Ongole as per customs of Muslims customs and rights. The petitioner alleged that at the time of marriage, her parents gave cash of Rs.3,00,000/- and presented 13 sovereigns of gold to the Respondents on their demand. After marriage she joined with R1 in leading matrimonial life. Thereafter, Respondents started harassing the petitioner and quarreled her even for petty issues. The Respondents also harassed the petitioner for want of additional dowry. On that, her brother arranged Rs.1,00,000/- to the 1st Respondent as additional dowry. Later the petitioner became pregnant and gave birth a female child on 12-08-2012. On knowing the fact the Respondents left the hospital immediately. After one month of birth of her child, the petitioner reached Podili to her in-laws house.

Later the Respondents vacated the house without informing to the petitioner as the 1st Respondent got job at Chaitanya Techno School, Bangalore. When she questioned about the same, the Respondents 4 and 5 beat her senseless and finally she was necked out from the house. Having no other go, the petitioner filed the present complainant and sought for protection order, residential orders and monthly maintenance and compensation of Rs.20,00,000/-.

3. In other side, the 2nd Respondent and the same was adopted by the Respondents 3 to 5 and denied the allegations of the petitioner.

R2 to R5 admitted the relationship with the petitioner. But they denied the allegation of receiving dowry and harassment. The

Respondents contended that, they never taken any dowry as alleged by the petitioner and never demanded additional dowry.

The Respondents further contended that, from the beginning the petitioner is leading a luxurious life at the risk of the 1st Respondent and that the Respondents 2 and 3 being old aged persons never depending upon the 1st Respondent and Petitioner at any time for their domestic needs. They came to know that the petitioner left the company of the 1st Respondent at about 3 years back and went to her parents house. Thereafter, on 21-02-2015 the parents of the petitioner along with some others came to 1st Respondent and threatened him with dire consequences and also beat him with hands and legs and used filthy language against these Respondents. In addition to that the Petitioner also lodged a report before Taluka police station for the offence under Sec.498(A) of IPC and Sec.3 and 4 of D.P. Act against the Respondents 2 to 5. After enquiry, the police deleted the names of Respondents 2 to 5. In fact, the 1st Respondent and petitioner never stayed a single day at the house of 2nd Respondent and that there is no necessity to these Respondents to torture and harass the petitioner.

Further the Respondents submitted that, the petitioner is working as a private employee at Ongole and earning Rs.20,000/- per month towards salary and also having sufficient means to maintain herself and her children. So the Respondents need not to pay any amount to the petitioner. The petition is filed only to harass these Respondents. Hence, sought for dismissal of the petition.

4. In order to bolster the petitioner contention, she herself examined as PW-1 and got marked Ex.P1.

At the time, counsel for the petitioner filed not press memo requesting the Court not pressing the case against the Respondents 2 to 5 and the same is allowed. Hence, the case against the Respondents 2 to 5 is dismissed as not pressed.

R1 set exparte.

5. Heard the petitioner.

6. Now the points for determination are :

1. Whether the petitioner is the legally wedded wife of the 1st Respondent?
2. As contended by the petitioner, whether Domestic Violence Act took place or not?
3. Whether the petitioner is entitled for the relief as prayed for?

7. As far as first point is concerned, ***whether the petitioner is the legally wedded wife of the 1st Respondent?***

Both the parties admitted the relationship with the petitioner. Therefore, much discussion is not required to answer the said point as the Respondents 2 to 5 themselves admitted that the petitioner is the legally wedded wife of the 1st Respondent. Hence, the point is answered accordingly.

8. As far as second point is concerned, ***As contended by the petitioner, whether Domestic Violence Act took place or not?***

The word harassment is given wider definition in the prospective of Domestic Violence Act-2005. As seen the definition, every piece of physical and mental element is being covered under the definition.

(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, injuries or endangers the aggrieved person with a view to coerce her or any 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.

As alleged by the petitioner, she was being harassed by the Respondents for want of additional dowry on several occasions and finally she was necked out by the Respondents from the house. Pw1 categorically deposed before this court that Respondents demanded her for additional dowry as she gave birth to a female child. Pw1 further stated in her examination that, R1 to R5 used to harass for want of additional dowry even though her parents presented dowry at the time of marriage. The Respondents 2 and 3 instigated ill-feelings to the 1st Respondent. She also filed Ex.P1 talak notice issued by the Respondent dt.21-07-2015. Hence, she filed the present petition.

9. As seen the allegations of the petitioner, she was being demanded by the Respondents for want of additional dowry. But there is no proof for that. This Court feels that demanding additional dowry is not an offence. As far as the Domestic Violence Act is concerned, to deal the said offence, there is a separate legislation is enacted. But the quantum of mental agony which an innocent woman faced when she is not in a position to meet the financial requirements of the husband shall have to be understand in the prospective of legislation. The petitioner stated in her evidence that the Respondents harassed her for want of additional dowry. For asking the proof of Domestic Harassment against a woman, is not feasible in all the circumstances. It is depend upon the circumstances of a party. When the husband demands additional dowry, the demand must be

took place inside the wall and no third party will have an opportunity to witness the said demand. Logically no husband demands the dowry or other articles in front of others. Obviously, any demand for want of dowry will be took place within four corners of the wall. For proving that fact, evidence may not require. The victim evidence itself is sufficient to prove her case. It is not a standard proof of believing of a particular fact. It is depend upon the circumstances. When the allegation of harassment was depicted by the petitioner herself, the demeanor of the witness manner which she speaks will play a vital role in deciding the case. Because, no third party will have an opportunity to see the harassment alleged to be happened against the petitioner. Therefore, this court feels that Pw1 evidence is alone sufficient to prove her version. If the respondents really did not commit any offence, they should come to the court and defend the case. But the defendants did not choose to put forth their defence in any manner. They fail to attend before this court in all hearing dates. In view of the no challenging the testimony of witness, this court holds the issue in favor of petitioner.

10. **Point No.3** :

Whether the petitioner is entitled for the relief as prayed for?

In the present case, PW-1 categorically stated that she was being harassed by the Respondents 1 to 5 and they are not even look after her daughter welfare even till today and she is depending on the mercy of her parents for earnings. Therefore, as per the evidence of PW-1, the Court feels that, the petitioner is being harassed in the hands of the Respondents.

In view of the discussion, this court feels that the 1st respondent only is liable to pay maintenance to the complainant and her daughter as the

petitioner not pressed the case against the Respondents 2 to 5. Hence, the issue is answered in favor of Pw1.

11. In the result, the petition is partly allowed and the petitioner is granted an amount of Rs.10,000/- towards monthly maintenance from the date of petition. Further the 1st Respondent is directed to pay an amount of Rs.5,00,000/- towards compensation to the petitioner. The 1st Respondent is further directed not to commit any domestic violence against the petitioner. Accordingly protection order granted. Respondent No.1 is directed to pay the monthly maintenance on or before 5th of every succeeding month. R1 is further directed to pay the arrears of the maintenance and compensation amount within three months from the date of this order. The rest of the claim against R1 is dismissed.

Typed to my dictation by the Personal Assistant, corrected and pronounced by me in Open Court, this the 21st day of July, 2016.

Sd/- J. Sravan Kumar,
**III ADDL. JUDL. MAGISTRATE OF I CLASS,
 ONGOLE**

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

For Petitioner :

PW-1: Pathan Bazidhunnisa

For Respondents :

Exparte

DOCUMENTS MARKED

For Petitioner :

Ex.P1/ - : Talak notice given by the Respondent dt.21-07-2015.

For Respondents : Nil.

Ild/- J.S.K.
**III A.J.M.F.C.,
 ONGOLE**