

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

Present: Miss **C.R.Sumalatha**, B.Sc., L.L.B.,
Special Judicial Magistrate of I Class, Excise Court, Ongole

Wednesday, this the 31st day of July, 2013.

D.V.C.No. 25 of 2012.

Between:

Ravilla Sasikala w/o Venkata Swamy, aged 28 years,
R/o D.No.2-1-352, Gaddalaguntapalem, Ongole.

... Petitioner

And

1. **Ravilla Venkata Swamy** s/o Jalaiah, 38 years,
11th cross road, Rajapanagal Road, Konijedu
Bustand center, Ongole.

2. **Ravilla Rama Subbamma** w/o Jalaiah, 68 years,
11th cross road, Rajapanagal Road, Konijedu
Bustand center, Ongole.

... Respondents

This case coming on 24.07.2013 for final hearing before me in the presence of Sri P.B.Ambarish, Advocate for Petitioner and of Sri K.Siva Prasad, Advocate for Respondents 1 and 2 and having stood over for consideration till this day, this court made the following:

// ORDER //

1. The petitioner filed this complaint before the District Protection Officer/Project Director, Ongole contending that on 14.04.2000 her marriage was performed with Respondent No.1, at the time of their marriage her father gave cash of Rs.1,00,000/-, 10 sovereigns of gold and Rs.20,000/- towards Adapaduchu Katnam, one year after her marriage the respondents started harassing her demanding her to bring additional dowry and also to get transfer of the site as agreed to be given at the time of marriage and within one year after her marriage her husband obtained registered gift deed from her grand mother in respect of the site which was agreed to be given to the 1st respondent, but the 1st respondent did not satisfy and addicted to bad vices and on the instigation of R2, R1 used to abuse her and harass her and necked her

out of the house and did not allow her into the house and as there is no other go she went to her parents house along with her children and 1st respondent is also harassing her over phone and prays to take necessary civil and criminal action against the respondents.

2. Denying the averments made in the complaint, the 1st respondent filed counter admitting his marriage with the petitioner and giving birth to two children out of their wedlock and settlement of vacant site in his favour by the paternal grand mother of the petitioner and contended that he gave shelter to the elder brother of petitioner who is a vagabond, but he removed him from employment as he misappropriated the amounts in the business and boring grudge on him the elder brother of petitioner is polluting the mind of the petitioner in collusion with his father, under the evil influence of her brother and father on 22.12.2007 the petitioner left his company by leaving their children and his old aged mother who is suffering from chronic ill-health to their fate and on 22.01.2010 the petitioner again joined him at the instance of elders but she did not change his attitude. While so, on 29.08.2010 the petitioner fixed "Puttu Ventrुकulu function" in consultation of her brother and father without the knowledge of this respondent and left the house on 27.08.2010 by taking their children. The 1st respondent further submits that he tried for reconciliation, during reconciliation and before elders the petitioner demanded that this respondent must come out of his house leaving his old aged mother to her fate, and he shall deposit Rs.1,00,000/- in the bank account of the petitioner and this respondent shall resettle the above said site in favour of petitioner, the 1st respondent agreed to deposit Rs1,00,000/- in the bank account of the petitioner and to resettle the above said site in favour of petitioner and did not agree to leave his mother and accordingly the 1st respondent

deposited Rs.1,00,000/- in the bank account of petitioner and on 24.08.2011 he prepared documents for execution of registered settlement deed to satisfy the demand of the petitioner, but surprisingly the petitioner demanded through a mediation to execute agreement of sale-cum-power of attorney otherwise she will not join him. Suspecting the petitioner and her people the 1st respondent settled the above said property in the name of his children by way of registered settlement deed on 30.08.2011 after that the petitioner filed Domestic Violence Case before concerned office and after counselling the petitioner again joined him for short time and again left his company on the reason of same site issue. After receipt of legal notice dt.29.12.2011 the petitioner gave reply notice dt.18.04.2012 with false and frivolous allegations and developed an evil idea to reopen the D.V.C. case in order to harass this respondent and his mother and again she gave report to the Project Director/District Protection Officer to continue D.V.C. against the 1st respondent and she also made havoc in front of 1st respondent's house with their relatives to damage the reputation of his family and she made efforts for resettlement of property but not for reunion and there are no bonafides on the part of the petitioner and either his mother or his sisters have no role of any kind in the family life of petitioner and this respondent and only to harass and blackmail this respondent allegations are made against them. The 1st respondent further submits that except the source of printing press there is no other source of income to this respondent and he has to look after his old aged sick mother and he is unable to pay maintenance separately to his wife and children due to his financial difficulty and amount claimed by the petitioner is excessive and he has no financial capacity to meet the same and all the allegations made in the petition do not attract the ingredients of

Domestic Violence Act and this petition is filed only to harass this respondent and his mother and prays to dismiss the petition.

3. To prove the case of the petitioner, the petitioner examined herself as Pw.1 and no documents are exhibited. On behalf of respondents, the 1st respondent examined himself as R.w.1 and no documents are exhibited. The respondent No.2 set exparte.

4. Now point for Considerations are that :

Whether the petitioner is entitled for the relief of maintenance and protection against R1 & R2 ? If so, to what extent ?

POINT:-

5. It is an admitted fact that both the petitioner and 1st respondent are wife and husband and their marriage is taken place in the month of April, 2000 and out of wedlock they are blessed with a son and daughter and at present both are staying away from each other.

6. The evidence of P.w.1 is that after their marriage they lived happily for one year and after that the respondents started harassing her to bring additional dowry and on the instigation of R2, R1 used to beat her by consuming alcohol, she used to inform the same to her parents and used to get money from her parents. In the year 2010 respondents necked her out of the house demanding her to bring money and since then she is staying with her parents along with her children who are studying 6th class and U.K.G. respectively and a mediation was held between them and during mediation also R.1 & R.2 demanded additional dowry to take her back to the matrimonial home and they also stated that if her parents failed to give additional dowry they will perform second marriage to R1. P.w.1 further deposed that R.1 is

proprietor of Bharani Printers, Ongole and getting income of Rs.20,000/- per month and R.1 is also doing finance business and real-estate business and earning Rs.20,000/- to Rs.30,000/- per month and 1st respondent is also having a house and also house sites and she is claiming Rs.15,000/- p.m. towards her and her children's maintenance and their educational expenses and also protection against R1 & R.2. Whereas the contention of 1st Respondent is that in the year 2004 elder brother of P.w.1 joined under him in his printing press, misappropriated some amounts in his printing press on that he removed him from employment, boring grudge on him the elder brother of P.w.1 created misunderstandings between them and since then P.w.1 used to quarrel with him to transfer the property in her name, as he did not accept to transfer the property P.w.1 propoganded that he necked her out of the house and during mediation also P.w.1 demanded him to deposit Rs.1,00,000/- and to transfer house site which stands in his name and also to put up separate family leaving 2nd respondent which is also admitted by P.w.1 during her cross-examination and P.w.1 also admitted that R.w.1 has deposited Rs.1,00,000/- and resettled the site and refused to leave his mother.

7. It is therefore, admittedly there are misunderstandings between P.w.1 and R.w.1 in relation to the house site and both of them are living separately away from each other since August, 2010 and petitioner is claiming Rs.15,000/- per month towards maintenance and educational expenses of her children contending that the 1st respondent is running Bharani Printers and he is getting income of Rs.20,000/- per month and the 1st respondent is also earning Rs.20,000/- to Rs.30,000/- per month by doing finance business and real estate business and 1st respondent is also having a house and house sites. To support the above contention

of P.w.1 except the oral evidence of P.w.1 there is no either oral and documentary evidence to prove that R.w.1 is earning Rs.20,000/- p.m. from printing press and R.1 is doing finance business and real-estate business and earning Rs.20,000/- to Rs.30,000/- p.m. The evidence of R.w.1 is that he is earning only Rs.7,000/- p.m. by running a printing press and except that he has no other source of income and he has no either movable and immovable properties and he is incurring an amount of Rs.1,500/- to Rs.2,000/- p.m. towards medical expenses of his mother who is suffering from blood pressure and kidney problem who is dependent on him and he is unable to pay maintenance as claimed by P.w.1 and P.w.1 is working as teacher at Damodara Public school, Ongole and getting salary of Rs.2,500/- to Rs.3,000/- P.M., except the oral evidence of R.w.1 no scrap of evidence is filed by R.w.1 to prove that P.w.1 is working as teacher at Damodara Public school, Ongole and getting salary of Rs.2,500/- to Rs.3,000/- P.M. and even during cross-examination of P.w.1 nothing is elicited from P.w.1 to support the evidence of R.w.1 that P.w.1 is working as teacher and getting salary of Rs.2,500/- to Rs.3,000/- P.M., and no suggestion is put to P.w.1 to that effect, it is for the reasons best known to P.w.1. It is therefore, it is admitted by R.w.1 that he is running a printing press and he is getting Rs.7,000/- per month and no piece of evidence is filed by P.w.1 to prove that the 1st respondent is earning Rs.20,000/- p.m. from the printing press and 1st respondent is also doing finance business and real-estate business and earning Rs.20,000/- to Rs.30,000/- per month, it is therefore, it is presumed that R.w.1 has no other source of income except income from printing press and the petitioner and her children who are dependents are entitled for maintenance and educational expenses of their children and the 1st respondent is directed to pay

monthly maintenance of Rs.1,500/- per month to the petitioner and monthly maintenance of Rs.1,000/- to each of her children for monthly maintenance and educational expenses.

8. Coming to the aspect of protection, the contention of learned counsel for petitioner is that the 1st respondent with the instigation of 2nd respondent is harassing P.w.1 and since, August 2010 P.w.1 is staying away from R.1 and R.2, subsequently R.w.1 wrote a letter Ex.P.1 to P.w.1 threatening her and harassing her to join him and during cross-examination of R.w.1 also R.w.1 admitted about writing of Ex.P.1 to P.w.1 in the month of September, 2010. Whereas the contention of learned counsel for Respondents is that R.w.1 wrote Ex.P.1 to P.w.1 to explain her what will be the position of P.w.1 if she stays at her parents house away from husband and what will be her future and their children's future and it does not amount to threatening her nor warning her. Admittedly R.w.1 wrote a letter Ex.P.1 to P.w.1 during her stay away from him. A perusal of contents of Ex.P.1 goes to show that he explained her what will the position of woman in society if she stays away from her husband, he also informed to P.w.1 that if she is willing to join him she has to obey him and he is not going to wait much more time for the sack of P.w.1 and he will settle in his life with another woman. It is therefore, in view of the above circumstances, I am of the opinion that P.w.1 is entitled for protection against R.1 and R.2, R.1 and R.2 are directed to not to attempt to communicate in any form whatsoever with P.w.1 including personal, oral or written or electronic or telephonic contact.

10. In the result, the petition is allowed by granting maintenance of Rs.1,500/- to the petitioner and Rs.1,000/- to each of her children (son and daughter), towards their monthly maintenance from the date of this order. And the 1st respondent is directed to pay monthly maintenance to the petitioner on or before the 5th of every succeeding month. And Respondents 1 and 2 are directed to not to attempt to communicate in any form whatsoever with P.w.1 including personal, oral or written or electronic or telephonic contact

Typed to my dictation by the personal assistant, corrected and pronounced by me in open court, this the 31st day of July, 2013.

Sd/- C.R.Sumalatha.
***Spl. Judicial Magistrate of I Class,
Excise Court, Ongole***

//APPENDIX OF EVIDENCE//

:- WITNESSES EXAMINED :-

For Petitioner
P.W.1 :Ravella Sasikala

For Respondents:
R.w.1: Ravella Venkata Swamy

// DOCUMENTS MARKED //

For Petitioner:
Ex.P.1 : Letter written by R.w.1 to P.w.1.

For Respondents:
NIL

Id/- C.R.Sumalatha.
Spl.JMFC, Excise Court,
Ongole.