

**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

Friday, the Twenty-second (22nd) Day of April, 2016

D.V.C.No.19/2014

Between:

Ravuri Venkata Lakshmi Mahathi, W/o. Venkata Durga
Butchi Rajeswararao, aged 29 years, Hindu, Housewife,
now R/o. D.No.8-457, near Nirmal Nagar Park,
Nirmal Nagar, Ongole, Prakasam District

... **Petitioner**

And

1. Ravuri Venkata Durga Butchi Rajeswararao, S/o. Late Rathaiah,
aged 37 years, Lecturer,
2. Ravuri Seethamma, W/o. Late Rathaiah, aged 60 years,
Housewife,
3. Nalgonda Sivanagamani, W/o. Radha Krishna, aged 43 years,
Housewife,
4. P. Vijayalakshmi, W/o. Padmanabham, aged 40 years,
Housewife,

All are R/o. Near Old Bus stand, Pedanandipadu village,
Guntur District

... **Respondents**

The petition coming on 19-04-2016 before me for final hearing in the presence of Sri K. Brahma Reddy, Advocate for the Petitioner and of Sri B. Bhaskara Rao, Advocate for the Respondents, upon hearing the arguments and having stood over for consideration till this day, this Court delivered the following:

// ORDER //

1. The present complaint filed by the petitioner to grant maintenance of Rs.10,000/- per month and grant of Rs.10,00,000/- towards compensation against the Respondents 1 to 4.

2. The brief allegations of the petitioner are as follows:

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

The undisputed facts of both the parties are, the petitioner is the legally wedded wife of R1. They both consumed marriage on 15-08-2009 as per Hindu customs and rites. With regard to the relation, there is no dispute. But the petitioner alleged that, at the time of marriage, Rs.2,00,000/- given as a dowry and Rs.1,50,000/- gold ornaments were presented at the demand of Respondents 3 and 4. The petitioner further alleged that they paid an amount of Rs.1,00,000/- towards Adapaduchu Lanchanam at the time of marriage.

Since R1 is working as Vice Principal at Sri Chaitanya Colleges, Vijayawada and used to earn Rs.30,000/- per month, they fulfilled all illegal demands of Respondents for performing marriage smoothly. Immediately after the marriage, both the 1st Respondent and Petitioner went to Pedanandipadu village native place of Respondent and started leading marital life. Immediately after setting-up the family at native place of Respondent, the harassment of demanding additional dowry was taken place. The Respondent No.1 demanded Rs.50,000/- from the petitioner on account that, a separate family will be set up at Vijayawada. As no other way the petitioner is accepted to fulfill the said demand. When the days are passing, the petitioner conceived. On one occasion, the 1st Respondent requested the petitioner to arrange Rs.25,000/- as he wanted to take Group-II coaching for a better prospective career. Believing the same, the petitioner arranged Rs.25,000/- to R1. Having not satisfied with the said amount, he demanded Rs.1,00,000/- of additional dowry and the same was supported by R2 and R3.

On 12-05-2010, a female child was born out of their wedlock. When the 'Barasala' function was held, the Respondents 1 to 4 made galata in the house of the petitioner's parents and demanded additional dowry and as well as one acre of land, then only she will be allowed to join with R1. On

the protest, the petitioner was left in her parents' home and went away. The petitioner patiently waited for many months, but the Respondents did not shown any interest in taking her along with him. After many months, the petitioner herself taken initiation and sent elders to have a better negotiation with the Respondents. In spite of that, the Respondents were not come forward for amicable settlement and adamantly demanded Rs.1,00,000/- dowry and one acre of land, then only they will be allowed the petitioner to stay along with R1. Having no other go, the petitioner filed the present complainant and sought for maintenance and compensation of Rs.10,00,000/-.

3. In other side, the Respondents 1 to 4 filed separate counters and denied the allegations of the petitioner. R1 to R4 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 Rs.50,000/- on foot of setting up a separate family at Vijayawada is absolutely false.

Respondent No.1 further contended that, the petitioner lodged a report before Taluka police station for the offence under Sec.498(A) of IPC against all the family members and harassed for frivolous allegations. The respondents further contended that due to the said report the police called him many times to Ongole for investigation, as such they harassed by keeping him in jail illegally. Due to that he could not attend his duties, as a result he lost his job and now he is offering pujas and earning money for his livelihood. He further contended that, the petitioner filed M.C. case before the VII Addl. District Judge's Court, Ongole and the same is pending for adjudication. He vehemently prayed the Court that, at present he lost his job and he could not maintain himself, he is depending on earnings of his

family members. Therefore, the petition is liable to be dismissed. He further brought to the notice of the Court that he filed HMOP 25/2012 on the file of Senior Civil Judge's Court, Markapur and the said Court was decreed in his favor and granted divorce against the petitioner as she could not attend before the Court, therefore made set ex-parte.

4. In order to bolster the petitioner contention, she herself examined as PW-1 and one B. Jaya Valli, who is the neighbour examined as PW-2.

In Respondent side also, the Respondent himself examined as RW-1 and one Mr. K. Kodanda Rama Rao, who is villager is examined as RW-2.

No documents are marked on behalf of either side.

5. 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 R1 to R4 are responsible for such harassment?
4. Whether the petitioner is entitled for compensation as prayed for?
5. Whether the petitioner is entitled for maintenance as prayed for?
6. To what relief?

6. 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 that the 1st Respondent himself admitted that the petitioner is his legally wedded wife. Hence, the point is answered accordingly.

7. As far as second point is concerned, ***Whether the petitioner is subjected to Domestic Violence from the hands of the respondents ?***

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, injures 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 two occasions. One on the occasion that R1 is intended to setting up a separate family at Vijayawada as well as to avail Group-II coaching. Pw1 categorically deposed before this court that R1 demanded for additional dowry on these two occasions and she arranged for the same. Pw1 further stated in her examination that, R1 to R4 used to harass for want of additional dowry in spite of she paid an amount of Rs.1,00,000/- towards Adapaduchu Lanchanam. When the said harassment was brought to the notice of R1, he used to support R2 to R4 illegal demands. She was being suggested that, R1 to R4 never harassed for want of additional dowry and she wanted to live along with her parents, hence the present case is foisted. Witness denied the said suggestions. As seen the Pw1 evidence she supported her complaint contends and stated before this court that she was harassed by R1 to R4 mentally and physically for want of additional dowry.

8. One B. Jaya Valli examined as PW-2 in support of the evidence of PW.1. She stated in her examination that, at the time of marriage, the petitioner parents presented Rs.2,00,000/- cash and Rs.1,50,000/- towards household articles to the Respondents on their demand. She further stated that Rs.1,00,000/- towards Adapaduchu Lanchanam also paid to the Respondents. She stated in his examination that, an amount of Rs.25,000/- has been given in addition to the dowry for purchasing the household articles. During her examination, she stated that, she came to know about the fact of harassment and in one occasion, the Respondents made galata against the petitioner for want of additional dowry when the 'Barasala' function was held. Admittedly, she did not see the incident and she is a hearsay witness.

As far as this point is concerned, the person who faced the harassment, is competent to give evidence. Admittedly, PW-1 is a victim wife and she herself faced the harassment in the hands of the Respondents according to her evidence.

9. As seen the allegations of the petitioner, she was being demanded by the Respondents for want of additional dowry of Rs.1,00,000/- and Rs.50,000/- respectively. 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 understood in the prospective of legislation. The petitioner stated in her evidence that the Respondent harassed her for want of additional dowry and he made galata in her daughter's Barasala function. For asking the proof of Domestic

Harassment against a woman, is not possible in all the circumstances. It is depend upon the circumstances to circumstances. When the husband demands additional dowry, a demand must be took place inside the wall and no third party have an opportunity to witness the said demand and no husband will demand 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 believeness for 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. 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. However, to support Pw1 version Pw2 who is neighbor also examined. She categorically support the version of Pw1 to some extent. Hence, this court holds the issue in favor of petitioner.

10. **Point No.3** :

Whether R1 to R4 are responsible for such harassment?

This court feels that, in matrimonial cases, insisting for eye-witness to prove the harassment against the petitioner seems not reasonable. Therefore, though it is not feasible to rely only on testimony of PW-1, in matrimonial cases, there is no other go to the Court to believe the version of the PW-1 if it is consistent and reliable. Therefore, this Court feels that, the reliability and consistency on PW-1 evidence.

In the present case, PW-1 categorically stated that she was being harassed by the Respondents 1 to 4 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, in view of the admission given by the 1st Respondent that the petitioner is his legally wife and he is having able body to maintain himself and further more as per the evidence of PW-1, the Court feels that, the petitioner is being harassed in the hands of the Respondents. Hence, the point is answered in favour of the petitioner and against the Respondents.

11. **Point No.4 :**

Whether the petitioner is entitled for compensation as prayed for?

As seen the provision of law, admittedly there is no proof of offering dowry to the Respondents, except the evidence of Pws-1 and 2. PW-1 is a victim and PW-2 is supporting victim. Since there is no documentary or any other reliable proof to show that the Respondents demanded dowry, in that demand, the petitioner paid an amount of Rs.1,50,000/- towards dowry. Therefore, the petitioner failed to provide reliable evidence before this Court that she paid some amount to the Respondents on their demand. Hence, this point is answered against the petitioner and in favour of the Respondents.

12. **Point No.5 :**

Whether the petitioner is entitled for maintenance as prayed for?

Since R1 to R4 admitted the relationship with the petitioner and fact of harassment also proved, it is also undisputed fact that the petitioner is now residing along with their parents. She is having young daughter. Even the 1st Respondent granted divorce against the petitioner, he cannot go away his responsibility unless and until she got re-married. But the petitioner is remained divorcee and she is not re-married. The 1st

Respondent is aged about 37 years and possessed good qualification. Though he stated that he is not doing any job earning money towards his livelihood. This contention was not acceptable. Learned respondent counsel vehemently argued that the petitioner is possessed B.Ed qualification, and earning money for her livelihood therefore, the respondent is not liable to pay any maintenance to her. Hence, he ought for dismissal of the complaint.

13. At this juncture this court would like place reliance on the observation made by the Hon'ble Delhi High Court in the case of **Damanpreet Kaur vs Indermeet Juneja & Anr. Which was reported in 2012 (5) LRC 279 (Del):**

In the said case Hon'ble Delhi High Court made observations that -

“a spouse who is well qualified to get the service immediately with less efforts is not expected to remain idle to squeeze out, to milk out the other spouse by relieving him of his or her own purse by a cut in the nature of pendent lite alimony. The law does not expect the increasing number of such idle persons who by remaining in the arena of legal battles, try to squeeze out the adversary by implementing the provisions of law suitable to their purpose”

As observed by the Hon'ble court in the above case, though the petitioner is earning by worthy of her capacity, it does not tantamount granting of maintenance. As seen the provisions of DVC Act, the wording used must be understand in wider sense that, the amount of maintenance shall be granted according to the standards of respondent. In this case, the petitioner is having daughter and some amount shall have to be meet towards his educational expenses.

In view of the discussion, this court feels that the respondent is liable to pay maintenance to the complainant and her daughter. Hence, the issue is answered in favor of Pw1.

14. In the present case, it is proved that due to his harassment only, the petitioner left in-laws house. Further more, she is having young daughter also. When the Respondent No.1 Possessed able body, it is his basic responsibility to look after the divorcée wife and her daughter. Therefore, this court feels that, granting Rs.5,000/- towards maintenance is reasonable to the petitioner. Further more, it is proved that the petitioner faced harassment in the hands of the Respondents, hence R1 is ordered to pay Rs.1,00,000/- towards compensation.

15. As seen the case facts, R2 to R4 involvement is very limited. Nowhere in the evidence, the petitioner alleged against the R2 to R4 simply and randomly she stated R2 to R4 also harassed her for want of dowry. No specific allegation against R2 to R4. Therefore, this Court did not incline to drag them into the case. But the mere intention of the legislation is to provide protection to the petitioner, hence protection order is granted against the petitioner from the hands of the Respondents 1 to 4. Granting protection order does not affect the Respondents' right that they are not involved in the commission of offence. Therefore, R1 to R4 are directed not to commit any domestic violence against the petitioner. Accordingly, a protection order is granted. Though the daughter of the petitioner is not shown as party in the present case, considering the facts and circumstances of the case, this court feels that Rs.5,000/- is reasonable to the petitioner to meet her food and other expenses. Admittedly, the father of the petitioner is working as State Government employee, but that does not tantamount to grant of maintenance. In her cross-examination, she admitted that she completed her B.Ed. However, it may be even the petitioner is doing the job and earning sufficient money, that does not bar to grant of maintenance to a wife that wife is earning, but maintenance

shall be granted at the standards of Respondents. Rs.5,000/- maintenance would not made the complete requirements of th petitioner and her daughter.

However, considering the facts and circumstances and representation made by the 1st Respondent that he lost his job very recently due to harassment of the petitioner and could not earn much money for his livelihood. Therefore, Rs.5,000/- is reasonable according to the facts and circumstances of the case and the Respondent No.1 is directed to pay the maintenance.

16. **Point No.6:**

To what relief?

In the result, the petition is partly allowed and the Respondent No.1 is ordered to pay Rs.5,000/- per month as a maintenance to the petitioner to meet the expenses of food, clothes and shelter from the date of petition. Further the 1st Respondent is ordered to pay an amount of Rs.1,00,000/- towards compensation to the petitioner. R1 to R4 are directed not to commit any domestic violence against the petitioner. Accordingly, protection order was granted. R1 is directed to pay the monthly maintenance on or before 5th of every succeeding month directly to the petitioner or deposit in the court enable to withdraw by the petitioner. 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 all the respondents is dismissed.

Dictated to the Personal Assistant, transcribed by her, corrected and pronounced by me in Open Court, this the 22nd day of April, 2016.

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

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

For Petitioner :

PW-1: Ravuri Venkata Lakshmi Mahathi

PW-2: B. Jaya Valli

For Respondents :

RW-1: Ravuri Venkata Durga
Butchi Rajeswararao

RW-2: K. Kodanda Rama Rao

DOCUMENTS MARKED

- NIL -

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