

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

Present: **Smt. M.Sudha,**
Special Judicial Magistrate of I Class, Excise Court, Ongole.

Monday, this the 4th day of December, 2017.

D.V.C.No. 13 of 2013

Between:

Velpula Kalyani,
Wife of Venkata Rao, aged 26 years,
Daughter of Chandrasekhar,
Gandhi Nagar, Chimakurthy,
Prakasam District.

.. Petitioner

AND

1. Velpula Venkata Rao,
Son of Narayana, aged 32 years,
Resident of Sorajupalli village,
Singarayakonda Mandal.
2. Velpula Gangamma,
Wife of Narayana, aged 55 years,
Resident of Sorajupalli village,
Singarayakonda Mandal.
3. Narra Seshamma,
Wife of Nageswara Rao, aged 37 years,
Resident of Narravaripalem village,
Singarayakonda Mandal.
4. Ammanabrolu Padma,
Wife of Balaiah, aged 35 years,
Resident of Kollurupadu village,
Ulavapadu Mandal.
5. Ammanabrolu Balaiah,
Son of China Kotaiah, aged 38 years,
Resident of Kollurupadu village,
Ulavapadu Mandal.

.. Respondents 1 to 5

This case coming on 29.11.2017 for final hearing before me in the presence of Sri **A.Hari Babu**, Advocate for Petitioners and of Sri **V.Ravi Kumar**, Advocate for the respondent, on hearing the learned counsels for both parties 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 //

This petition is filed by the petitioner through Project Director against Respondents 1 to 5, praying the Court to allow this petition directing them to provide Protection order under Section 18 of Domestic Violence Act, Residential Order under Section 19 of Act,

maintenance of Rs.10,000/- per month and Rs.18,000/- towards damages under Section 20 and compensation under Section 22 of the Domestic Violence Act.

2. The brief averments of the petition are that: the marriage of the petitioner was solemnized with the 1st respondent on 26.06.2011 before the elders. The 1st respondent is working as Teacher in MPPS School, Kota of Ponnalur Mandal. At the time of marriage parents of P.w.1 gave a cash of Rs.10,00,000/- to the respondent and Ac.0-20 cents of house site to the petitioner towards pasupu kunkuma, gold chain of 3 sovereigns, neckles of 3 sovereigns, steps chain of 6 sovereigns, another 6 sovereigns of gold chain, 4 bangles of 6 sovereigns total 24 sovereigns. The petitioner and 1st respondent came to her parents house at the time of Dasara festival and again they went to her in laws house and from there respondents 1 to 5 used to harass her both physically and mentally stating that they are in hurry mood agreed for the marriage and if they waited for some more time better matches may be came to 1st respondent and more dowry may be received by them and 1st respondent informed the petitioner that he had extra marital relation with a woman of his village and requested to give divorce and further informed that he will inform the person who came forward to marry the petitioner that she is of good character and for that the petitioner refused and she will not degrade the family prestige of her parents and she will lead the life till her last breath and later R5 dropped her at Chimakurthy and on the next day the petitioner was taken back to her matrimonial house by the petitioner parents and elders instructed 1st respondent to lead family without any disputes and thereafter she was joined by her husband for entrance coaching for TET examination and within 10 days she came to know about conceiving of baby and conditions in hostel are not good, she returned to Somarajupalli village and thereafter 2nd respondent not providing any sufficient food and not taking care and when she

questioned that her husband is getting Rs.20,000/- why minimum food is not provided to her and for that 1st respondent also supported her mother and by knowing that the petitioner was taken to her parents house for delivery, her entire ornaments were taken by the respondent and given yellow thread thali to her and thereafter on 05.07.2012 the petitioner's parents came to Somarajupalli for conducting seemantham and for that the respondents refused to conduct and placed the material out of the house and as there is no other other alternative, the petitioner was taken to Chimakurthy and on 27.07.2012 the petitioner blessed with female child and it is of normal delivery and on third day she was discharged from the hospital and immediately after delivery, the same was informed to respondents and respondents not turned up to hospital and thereafter the 3rd and 5th respondents came to the house of the petitioner's parents and informed that it is not auspicious in Yadava community to gave birth to a female child on Wednesday and it is not good to father and requested to kill the baby and immediately the petitioner called to her husband and he also informed that the she had to follow instructions of the respondents and when the baby is of 5th month, the parents of petitioner dropped her at her in laws house and the respondents imposed condition of to petitioner to sell the vacant site and to bring 30 lakhs and for that the petitioner is not accepting and thereafter the respondents increased harassment and the minimum needs of child are also not looked after by the respondents and 2nd respondent is not even allowing the petitioner to prepare food on gas stove and to prepare food with firewood and he was not allowed to sit in the hall and she had to sleep with child without fan in the kitchen and she informed about the harassment and facing of troubles to the parents and on that the mother of the petitioner and her sister came to Somarajupalli and they were not allowed into the house and on next day by keeping the child, the petitioner was necked out and they are not even allowing the

petitioner to give milk to her child and on that the mother of petitioner informed the same to her husband and her rushed to Singarakonda police station and informed all the facts and the Sub-Inspector of Police sent a constable to Somarajupalli and on his intervention the child was given to the petitioner to give milk to the child and thereafter all of them went to Singarayakonda police station and thereafter the petitioner was demanded by her husband to dispose of the property and come to his house with Rs.30,00,000/- cash and other respondents gave one month time for that and prayed for action against the respondents and further requesting the officer to take steps to join the petitioner, her child with 1st respondents etc allegations and the same was registered on 01.04.2013 and prays the Court for the following reliefs:

- a) To grant protection under Section 18 of Domestic Violence Act.
- b) To provide residential accommodation to the petitioner either in the house of 1st respondent or suitable rented accommodation under Section 19 of Domestic Violence Act.
- c) To grant a maintenance of Rs.10,000/- per month and Rs.18,000/- towards damages under Section 20 of the Domestic Violence Act.
- d) To direct the respondents to pay compensation under Section 22 of Domestic Violence Act and

3. The 1st respondent filed counter denying the averments of the petitioner and respondents 2 to 5 submitted memo adopting the counter of 1st respondent and further contented that the respondents 3 to 5 are no way concerned with the allegations and they never resided with the petitioner and 1st respondent and they never interfered with the family matters of petitioner and 1st respondent and they never visited the house of 1st respondent, they never made any harassment towards the petitioner. The petitioner her self left the company of the

1st respondent stating that she is well educated and further submits that she never gave respect to the family life and she is the type of adamant character from the beginning and used to hear the words and ill advices of her parents and due to the ill advise of her parents she herself spoiled the family life with unnecessary disputes with the respondents and respondents further submits that the petitioner herself demanded the 1st respondent to put up separate family leaving the 2nd respondent for her fate and when refused by 1st respondent, she filed the case against the respondents as they did not hear the words of the petitioner that the 2nd respondent who suffering with all old age ailments, she never interfered in between the petitioner and 1st respondent and taking advantage of the acts in favour of the petitioner, she filed the cases against the respondent without any proper case and hence the respondents prays the Court to dismiss the petition.

4. During the course of enquiry, to prove the petitioner's case, the petitioner-Velpula Kalyani is examined as P.W.1, besides examining P.W.2 and marked Ex.P1.

Likewise, the respondent examined as R.W.1, besides himself R.W.2 is examined and marked Ex.R1 market value assessment (valuation certificate), Ex.R2 certified copy of deposition of P.w.1 in C.C.139/2013, Ex.R3 salary bank account statement and Ex.R4 is the loan account statement.

5. Heard the learned counsels for both parties.

6. Perused the material on record.

7. Now the points for determination are:

1. Whether the petitioner is entitled for protection orders under Section 18 of Domestic Violence Act?

2. Whether the petitioner is entitled for accommodation either in the house of house or in suitable rental residential house under Section 19 of the Act?
3. Whether the petitioner is entitled for maintenance of Rs.10,000/- per month?residential
4. Whether the petitioner is entitled for compensation from the respondent for causing mental agony and emotional distress caused by the acts of the respondents?

POINT No.1:-

8. The sum and substance of the evidence of P.Ws.1 and on perusal of evidence, there is no dispute with regard to petitioner marriage took place with first respondent on 26.06.2011 at Singarayakonda in Sitharama Function hall in the presence of elders and out of their wedlock they blessed with one female child. The petitioner speaks that the 1st respondent is working as a Government Teacher, after she conceived for the said female child, she requested the 1st respondent to take her to in laws house, but he refused to take back her to in laws house because he married her on the ground that she will get Government job at last 1st respondent took her to her in laws house and left her at the house and went away. Subsequently, respondents 2 to 5 necked out her from her in laws house and on request again they have provided shelter even not provided for food and shelter. Subsequently, they took her gold ornaments, she was taken to delivery by her parents. After delivery they have not taken her to in laws house.

The contention of the respondent from his evidence that he has not only denied the allegations of the petitioner in fact till the date of birth of female child the petitioner reside along with him at Somarajupalli village. He also performed the namakarana function at Sivalayam of Pakala of their daughter. The petitioner left his company on the ground that she is not interested to live in the village and interested for living in town and not look after his mother. The another

version of the respondent is since he refused to live at the house of the parents of P.W.1. She left his company voluntarily. P.W.2 who is mother of P.W.1 corroborated the evidence of P.W.1 including to speak that respondent demanding the petitioner to sell away 20 cents of land harassed the petitioner without providing food and shelter. Further she speaks that since the petitioner was not able to stay in the house of the respondent and they did not give the custody of the petitioner daughter, thereafter on the report given by the petitioner at Singarayakonda, the respondent gave custody of the daughter of the petitioner.

9. On the other hand the respondent denied the entire allegations made against him and respondent mainly contended that petitioner left the matrimonial home without a justifiable cause which amount to voluntary desertion, hence the petitioner voluntarily deserted the 1st respondent, she is not entitled for any of the reliefs claimed in the petition.

10. Both parties adduced oral and documentary evidence to support and substantiate their respective contentions, it is clear that though 1st respondent made allegations against the petitioner that she is voluntarily left the matrimonial home and deserted 1st respondent and she is not looking after his mother, but 1st respondent failed to prove both the allegations against the petitioner.

11. As seen from the records, the fact remains that the petitioner is now staying by taking shelter in her parents house along with her daughter. Once the petitioner and her mother made serious allegations against respondents 1 to 5 that they harassed her without providing her proper food and clothing and assaulted her. The respondent simply except denying the same, but he did not rebut the said allegations by placing any positive evidence by examining of any

independent evidence on his behalf. Further he has not specifically mentioned in what the way the petitioner harassed him and he has not mentioned the names of the persons who went to the house of the parents of the petitioner for mediations. Further it is pertinent to mention that including wife and refusing to lead marital life with her will, certainly amounts to domestic violence, this attitude of the respondent rather than to his evidence is unreliable and supporting the case of the petitioner that he voluntarily neglected the petitioner certainly amounts to Domestic violence.

From the above the petitioner by examining herself and by examining P.w.2, she has proved her contention and even in spite of cross examination of P.Ws.1 and 2 no useful material is elicited to disprove the case of the petitioner or to discard her evidence. As seen from the entire evidence on record, the 1st respondent did not put forth cogent evidence for his violation to discharge his matrimonial obligations towards the petitioner, 1st respondent having married the petitioner, ought to have took her matrimonial home to lead marital life. He has failed to explain the concerned if any in discharge in obligation towards the petitioner, the 1st respondent simply makes certain bald allegations that petitioner herself left the company, on the other hand the petitioner proved her case, therefore the petitioner who proved that that she was subjected to domestic violence in the hands of the respondent is certainly entitled for protection orders as claimed in the petition.

POINT NO.2:

12. As to the residential order under Section 19 of the Act is concerned, it is pertinent to mention that maintenance includes foods, clothing and shelter. Further more, the petitioner is living with her female child born to the respondent at her parents house. Apart from that, at this juncture, when I consider Section 17 of the Domestic

Violence Act, it is mentioned that- Right to residence in a shared house:

(1) Notwithstanding anything that law for the time being in force, every woman in a Domestic Relationship shall have the right to reside in the shared house hold whether or not she has any right to title or beneficial interest in the same.

(2) The aggrieved person shall not be evicted or excluded from the shared house hold or any part of it by the respondent gave in accordance with the procedure established by law. The section declares that every woman who is being having in shared house hold is entitled to live therein and shall not be evicted without following due course of law. The woman claiming residence must be one living in a shared hold in Domestic relationship which could be either blood relationship or relationship through marriage, adoption or foster relationship.

According to the act, shared house hold means house hold consisting of members of family normally closely related.

In the present case the petitioner is wife of 1st respondent, she is certainly entitled to residential order and the respondent is directed to provide shelter in his house or to provide separate accommodation by paying rent of Rs.

In view of the above facts and circumstances and also Section 17 of the Domestic violence Act complied to the case on hand, this court is inclined to grant the relief claimed by the petitioner under Section 19 of the Act.

POINT No.3:

13. Coming to another relief sought by the petitioner i.e., maintenance under Section 20 of the Act, as I already discussed above, since petitioner was necked out by the respondents 1 to 5, she is resided at her parents house. Even for argument sake that the

respondent sent some elders for mediation to get back the petitioner. But the petitioner refused that she is not interested to join with him, unless he put up family in town, she herself voluntarily deserted him. If it is true and correct, what prevent the respondent to mention the names of the elders to whom he sent for mediators including the date and etc facts. In the absence of examination of any witnesses on his behalf, this court has no option to believe the allegations of the petitioner that the respondent necked out the petitioner from his house and left her fate by compelling her to stay at her parents house including without sending any mediators.

Coming to the financial capacity both petitioner and respondent as on today though the respondent alleged that petitioner is working as teacher in Chimakurthy and getting Rs.12,000/- per month besides that she is having Ac.0.20 cents of house site in S.No. 575/3 in Bodduvanipalem village and she is enjoying the same, whereas the petitioner admits that her father gave house site at an extent of Ac.0.20 cents at the time of her marriage in S.No.575/3 and it is only a vacant site and same is also evidence under Ex.R1. But, mere possession of 20 cents of site in her name it does not mean that she is not entitled to get any relief to maintain, particularly when she is residing with her parents. More over, the daughter of the petitioner is aged about 6 years and studying in Chaitanya school. Further petitioner is getting salary of Rs.12,000/- per month is true and correct, no evidence was placed by the respondent to that effect. However, the evidence of R.W.2 Bank Manager is taken into consideration, after deductions of loan amount 1st Respondent salary is Rs.20,856/-, it shows that some more amount was added to net salary. As per Ex.P1 salary certificate of the respondent, first respondent is getting salary of Rs.39,858/- per month with reasons best known to the first respondent might have intentionally obtained personal loan to show that lesser amount was received by him and to show that the amount is sufficient

to the needs of himself and his mother and R.W.2 also admits that there are no attachments for the salary of R.W.1, except loan cash of Rs.11,072/- as per Ex.R3. Therefore, taken into consideration of Ex.P1 and Ex.R3, the respondent is having sufficient means to maintain the petitioner whereas the petitioner proves that she is not getting any income except saying that she is depending upon the mercy of her parents. Therefore, the petitioner is entitled for monthly maintenance.

POINT No.4:

13. So far as the compensation claimed by the petitioner and also return of cash of Rs.10,00,000/- and gold ornaments i.e., 24 sovereigns of gold from the respondent is concerned, petitioner did not place any documentary or independent evidence, as such relief sought by the petitioner for compensation and return of cash of Rs.10,00,000/- and 24 sovereigns of the gold by the petitioner does not arise.

In view of my foregoing discussion, the petitioner has proved that the 1st respondent has neglected to lead marital life with the petitioner and also failed to maintain the petitioner. Accordingly, the petition is partly allowed.

19. In the result, the petition is partly allowed by granting the following reliefs:

- (a) The protection order is granted in favour of the petitioner, restraining the respondents 1 to 5 committing any Domestic Violence against the petitioner.
- (b) The 1st respondent shall pay Rs.9,000/- (Rupees Nine thousand only) per month to the petitioner towards maintenance from the date of this order.
- (c) The 1st respondent is further directed to provide accommodation by paying rent of Rs.4,000/- per month.
- (d) The 1st respondent is directed to pay the maintenance awarded to the petitioner and rent amount on or before 10th of every succeeding month.

The other reliefs sought by the petitioner are hereby dismissed.

The office is directed to make a copy to the Protection Officer who is Project Director, District Women and Child Development Agency, Prakasam District, for perusal.

The office is further directed to serve copy of order to the petitioner for free of cost as per Section 24 of Domestic Violence Act.

Dictated to the personal assistant, transcribed by her, corrected and pronounced by me in open court, this the 4th day of December, 2017.

**Sd/- M.Sudha,
Spl. Judicial Magistrate of I Class,
Excise Court, Ongole.**

//APPENDIX OF EVIDENCE//

-: WITNESSES EXAMINED :-

For Petitioner

P.W.1 : Velpula Kalyani

P.W.2 : A.Vijaya Kumari

P.W.3 : V.Ramaswamy

For Respondents:

R.W.1: Velpula Venkata rao

R.W.2: P.Sekhar

// DOCUMENTS MARKED //

For Petitioners:

Ex.P1 : Pay slip for the month of June, 2017, of R.W.1

For Respondents:

Ex.R1: Market value assessment (valuation certificate)

Ex.R2: Certified copy of deposition of P.W.1 in C.C. 139/2013.

Ex.R3: Salary Bank account statement

Ex.R4: Loan bank account statement.

**Sd/- M.Sudha,
Spl.J.F.C.M.
Excise Court, Ongole.**

