

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

PRESENT : **S.SAILAJA.**

III Addl. Judicial Magistrate of First Class,  
Chittoor.

Friday, the Third (03<sup>rd</sup>) day of November, 2017.

**D.V.C.No. 12 of 2016**

Between:

R.Jyothi, w/o K.Chandra Babu, 30 years,  
184 Gollapalle Village, Yadamari Mandal.

... Petitioner

And

- 1 : Chandra Babu s/o Venkatesulu Shetty,  
D.No.24-292, Rajaveeshi, Britaniya  
Podino, Madaras City.
- 2 : Rajeswari W/o Balakrishna, D.No.24-  
292, Rajaveeshi, Britaniya Podino,  
Madaras City.
- 3 : Lakshmi w/o Chalapathi Schetty, Door  
No. 12-263, Khan Veedhi, Ramula Gudi  
Veedhi, Chittoor.
- 4 : R.Raju, s/o Subramani Shetty, Door No.  
4-1527, Maseedu Mitta, Greamspet,  
Chittoor.
- 5 : Munirathnam S/o Subramani, Door No.  
4-1527, Maseedu Mitta, Greamspet,  
Chittoor.

... Respondents

This petition is coming on 30.10.2017 for final hearing before me in the presence of Sri T.Purushotham, Advocate for Petitioner; Sri M.Subramanyam, Advocate for R-1 and 2; Sri P.Dayasekar, Advocate for R-3 to R-5; the respondents 1 and 5 remained exparte; and having stood over to this day for consideration; this Court delivered the following:

**ORDER**

**01.** This petition is filed by the petitioner for seeking reliefs under Sections 18, 19, 20, 21 and 22 of Protection of Women from Domestic Violence Act.

**02. The brief averments of the petition are as follows :**

**A.** The petitioner's marriage was performed with the 1<sup>st</sup> respondent on 26-7-2009, at Mogileeswar Temple, Mogili village as per Hindu rites and custom and at the time of her marriage her parents presented 08 sov. Of gold at the time of marriage when the

1<sup>st</sup> respondent demanded chain which was presented by her relative Kalyani w/o Chandra to the 1<sup>st</sup> respondent besides that her parents presented house hold articles to the respondents and also presented a dowry of Rs.2,00,000. After her marriage she along with 1<sup>st</sup> respondent stayed at Chennai for a period of 2 years and then they have shifted their residence to Chittoor at Ramulugudi Veedhi in D.No.12-263. After they have shifted to Chittoor the 1<sup>st</sup> respondent demanded house hold articles and the same was provided by her parents which is worth about Rs.20,000/- purchased from Saravana Stores, Chennai. When she was pregnant the 1<sup>st</sup> respondent instigated her to get abortion for 2 times even she is not willing to get abortion with the instigation of the respondents as the 1<sup>st</sup> respondent is not yet settled. After they have shifted their residence to Chittoor the 1<sup>st</sup> respondent has developed illegal intimacy with the 2<sup>nd</sup> respondent and hide the jewels which was provided by her parents at the time of marriage and the said jewels are in the custody of R-2 to R-4 and all the jewels are worth of Rs. 2,50,000/- is in their hands.

**B.** She further stated that with the instigation of his family members and 2<sup>nd</sup> respondent quarreled with her without any reasons and demanded her to get additional amount from her parents. When her sisters marriage was performed, the 1<sup>st</sup> respondent did not turn up went to the marriage and sent her to her parents house, then afterwards he did not turn up to take her and the whereabouts of the 1<sup>st</sup> respondent were unknown. She came to know that the 1<sup>st</sup> respondent with the instigation of 2<sup>nd</sup> respondent and other respondents did not choose to take her to his house and 1<sup>st</sup> respondent is visiting to the house of 2<sup>nd</sup> respondent regularly and at that time they have given complaint to the SHO of police, as the 1<sup>st</sup> respondent is missing and due to the mediation of elders from both sides the 1<sup>st</sup> respondent was called and mediation was held on 26-11-2012, the 1<sup>st</sup> respondent was handed over to the SHO, Yadamari Police Station and counseling was held by the elders. At the time of mediation the 1<sup>st</sup> respondent agreed to shift family at 184, Gollapalle village, but he did not turn up. They came to know that the 1<sup>st</sup> respondent is regularly visiting the house of 2<sup>nd</sup> respondent at Chinna Brahmin Street and suddenly when her parents went there, the 1<sup>st</sup> respondent harassed her parents and necked out from the house of 2<sup>nd</sup> respondent saying that she is not fit match to him and her parents have no capacity to lend money for his luxurious life. The 1<sup>st</sup> respondent is doing business and having landed properties at his village as well as

Chennai besides and that the 1<sup>st</sup> respondent voluntarily deserted her without any reasonable cause and he is leading an immoral life. She is aged about 32 years and depending upon her old parents who are aged about 70 years old. She has no any independent source of income and she is living with the mercy of her old parents who are very poor and they are also depending upon his son who is working in a private milk dairy. Therefore, she prays to grant maintenance of Rs.5,000/- per month and also to provide shelter for living her, further the respondent shall return the gold jewels of 13 sovs which was in the hands of the respondent and the amounts of Rs.2,00,000/- which was given by her parents for his development of his business. Hence, the petition.

**03.** The brief averments of the counter filed by the 4<sup>th</sup> respondent and same adopted by the respondents 2 and 3, are as follows:

He contends that the petitioner has not mentioned that there is no specific date or month when the petitioner and the 1<sup>st</sup> respondent are residing in Chittoor. Respondents 3 to 5 never resided along with the petitioner. The petitioner and the 1<sup>st</sup> respondent were residing at Chennai and this respondent and the 5<sup>th</sup> respondent are residing in Greampet, Chittoor and the 3<sup>rd</sup> respondent is residing in Ramarkoil Street, Chittoor along with her husband and her family members. The 1<sup>st</sup> respondent is the maternal uncle's son of 4<sup>th</sup> respondent and that he is residing in Chennai since 25 years. The petitioner's marriage was performed with the 1<sup>st</sup> respondent on 26-7-2009 at Mogileeswaraswamy, Mogili as per Hindu rites and customs. Subsequently, after the marriage, the petitioner and the 1<sup>st</sup> respondent were put up with family at Chennai and the petitioner was residing along with the 1<sup>st</sup> respondent for a period of one. Due to their wedlock no issues were born. 4<sup>th</sup> respondent is running a small petty shop at Greampet, Chittoor and the 5<sup>th</sup> respondent is an auto driver and they are residing along with their family members at Greampet, Chittoor. At any point of time the respondents 3 to 5 have went to the house of the petitioner and the said allegations are invented by the petitioner for the purpose of the present case only. Therefore, he seeks to dismiss the petition with exemplary costs.

**04.** Respondents 1 and 2 not filed counter though availing sufficient time given by the court, hence this court treated the counter of Respondents 1 and 2 as no counter.

**05.** On behalf of petitioner, she examined herself as P.W.1 and PW-2, marked Exs.P.1 to P.3. On behalf of respondents, 4<sup>th</sup> respondent is examined as RW-1. No documents are marked on behalf of respondents.

**06.** Heard. Perused the records.

**07.** Now, the point for consideration is :

1. *Whether the petitioner herein was subjected to domestic violence and she is entitled to seek the reliefs under Sections 18,19, 20, and 22 of the Act?*
2. *To what relief ?*

**08. POINT 1:**

**A.** To prove her case, she herself examined as PW-1 and she re-iterated the contents of her complaint in her chief examination affidavit and Ex.P.1 to P.3 are marked. Ex.P.1 is Report given to Protection Officer. Ex.P.2 is Marriage wedding card. Ex.P.3 is Marriage photographs 2 in count. In her cross examination she deposed that she does not know the contents of counter filed by R-3 to R-5. She admitted that R-3 to R-5 are not relatives of R-1, that R-3 to R-5 never resided with R-1 in a shared house, that after marriage she and her husband resided together at Chennai for 2 years, that she has not made any allegation against R-3 to R-5 that they harassed her, that she complained against only R-1 and R-2 in her report. She does not know at whose instance the names of R-3 to R-5 were implicated. She denied that R-3 to R-5 are no way consent to this case.

**B.** P.W.2 who is third party deposed in his chief affidavit as stated by the of P.W.1. During the course of cross examination he stated that PW-1 filed the case for the purpose of her husband. He admitted that R-3 to R-5 never lived together with PW-1 and R-1 under same roof.R-3 residing separately in Ramarkoil Street, Chittoor. R-4 and R-5 are residing at Chennai. He does not remember the date of mediation participated by him. He is neighbourin villager of Gollapalle. He never resided in Chittoor Town. He never instructed his counsel as he is resident of Chittoor and Chittoor address. R-3 is the brother-in-law of R.1 and he does not know the relationship between R-1 and R-4, R-5. He denied the suggestion that he does not know any facts of the case and he is deposing false to help PW-1, that R-3 to R-5 does not have any relationship with PW-1 and R-1 after their marriage and that after the

marriage R-1 and PW-1 resided at Chennai and they never resided at Chittoor.

**C.** To prove their case, 4<sup>th</sup> respondent examined as RW-1 and he re-iterated the contents of his chief examination affidavit. In his cross examination he stated that R-3 is his sister. R-1 is his maternal uncle's son. She does not know whether R-1 living in Chittoor in the year 2011 and 2012 in Ramulavari Gudi Street. He knows the contents of his chief affidavit. He denied the suggestion that while R-1 present in the house of R-3 police came and brought the R-1 in police station, that R-1 had illegal contact with one Lakshmi and R-1 given gold items of petitioner to the said Lakshmi. R-1, himself, R-3 and R-5 harassed petitioner and thrown out petitioner from the house of R-1.

**D.** It is clear that the Respondents have admitted the relationship of the Complainant and 1<sup>st</sup> respondent, and denied their harassing her. So, the burden lies very much upon the Complainant/ Petitioner to prove her contentions. To establish her contentions, the Complainant/ Petitioner had examined herself as P.W1. She deposed in Chief in accordance with her pleadings. Evidence of P.W.2 is supporting the evidence of P.W.1 with all material aspects. It is also clear that the Complainant/ Petitioner produce documentary proof under Ex.P.1 to P.3 to show the relationship of 1<sup>st</sup> respondent and complainant.

**E.** PW.1 admitted during her cross examination that respondents 3 to 5 are not relatives of 1<sup>st</sup> Respondent, that respondents 3 to 5 never resided with 1<sup>st</sup> Respondent in a shared house, that after marriage she and her husband resided together at Chennai for 2 years, that she has not made any allegation against respondents 3 to 5 that they harassed her, that she complained against only respondents 1 and 2 in her report. As per admission of PW.1 there was no allegation against respondents 3 to 5. She made allegations only respondents 1 and 2. As per records the respondents 1 and 2 are not contesting the case.

**F.** After considering the evidence of P.W.1 that she was harassed for want of additional dowry and necked out from the matrimonial home which has remained unchallenged, as 1<sup>st</sup> respondent not contesting the case, the evidence of P.W.1 is considered to believe that she is the victim of domestic violence and therefore she is entitled for the reliefs to the reasonable extent. It is observed that petitioner is seeking maintenance and residence order from her husband.

**G.** With regard to ability of the 1<sup>st</sup> respondent, no proof was filed to show that how much money was earning by the 1<sup>st</sup> respondent,

and the price index of commodities and other essential needs, I am of considered opinion that the petitioner is entitled to get a maintenance of Rs.3,000/- per month. And complainant is also entitled for alternate accommodation charges. Accordingly, the respondent is directed to pay the maintenance and alternate accommodation charges every month without fail. There is no relief order against respondents 2 to 5 as the petitioner did not asked any relief from respondents 2 to 5.

**H.** The Petitioner/Aggrieved Person has also sought for compensation Rs.2,00,000/- and gold jewelry from the Respondents. But she did not specify as to on what counts she had sought such compensation. In these circumstances, the mere averment in the Petition is not sufficient to grant compensation to the Petitioner, since the tie between the Petitioner/ Aggrieved Person is sacred the marital tie and it cannot be equated with any business relation wherein the damages or compensation will be paid for breach.

Hence, the Point is answered in favour of the Petitioner/Aggrieved Person accordingly.

**09. POINT 2 :** *To what relief?*

As point No.1 is answered in favour of petitioner, this point is also answered in favour of petitioner partly.

In the result, petition is partly allowed. 1<sup>st</sup> respondent is liable to pay Rs.2,000/- per month towards the alternate accommodation charges for the petitioner and that 1<sup>st</sup> respondent is liable to pay amount of Rs.3,000/- as monthly maintenance to the petitioner. The respondents 2 to 5 are not liable to pay the alternate charges and maintenance amount to the petitioner as 1<sup>st</sup> respondent is bound by law to provide the same to the petitioner herein.

*Typed by the Personal Assistant to my dictation, corrected and pronounced by me in the open court on this, the 3<sup>rd</sup> day of November, 2017.*

SD/SAILAJA  
III Addl. Judl. Magistrate of I Class,  
Chittoor.

**APPENDIX OF EVIDENCE**  
**WITNESSES EXAMINED**

**FOR PETITIONER :**

P.W.1 : R.Jyothi  
P.W.2 : K.Dhanaraj.

**FOR RESPONDENTS :**

RW-1: R.Raju

**DOCUMENTS MARKED**

ON BEHALF OF PETITIONER :

Ex.P.1 : Report given to Protection Officer.

Ex.P.2 : Marriage wedding card.

Ex.P.3 : Marriage photographs 2 in count.

ON BEHALF OF RESPONDENTS : Nil.

*ID/SSLJ*  
III AJMFC.,  
CTR.

// True copy//

III Addl. Judl. Magistrate of I Class,  
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