

**IN THE COURT OF THE JUDICIAL MAGISTRATE OF 1st CLASS,
SPECIAL MOBILE COURT, ANANTAPURAMU.**

**Present:- Smt.A.Geetha Vani,
Spl. Judl I Class Magistrate, Proh. & Excise Cases, Anantapuramu.
FAC. Spl. Mobile Court, Anantapuramu**

Thursday, this the 29th day of October, 2015

DVC 09/2012

Between:-

Shaik Sahanaaj Begum, W/o.S.Mohammed Rafi,
aged 40 years, Muslim, Temporarily residing at
D.No.10/187-A, Gulzarpet, Anantapur.

.....Petitioner.

AND

1] Shaik Mohammed Rafi, S/o.S.Abdul Salam, aged 46 years,
R/o.D.No.6/224, Railway Porter line, Guntakal.

2] S.Abdul Salam, S/o.not known, aged 69 Years,
Retired Diesel Driver in Railway Department,
r/o.D.No.6/224, Railway Porter line, Guntakal. **[died and abated]**

3] Smt.Thahera, W/o.Jeelan, aged 45 years, D.No.6/224,
Railway Porter line, Guntakal. **[set exparte]**

....Respondents.

This petition is coming before me for hearing on this day in the presence of Sri.B.Satya Narayana Reddy Advocate for Petitioner and Sri.P.Sreekanth, Sri.P.Sarath Babu Advocates for Respondents 1 and 2 and R3 set exparte and having perused the material available on record, this court passed the following:

ORDER

1] This Petition is filed u/s.12(1) of DVC for the relief u/s.18, 19, 20, 21, 22 & 23 of Protection of Women from Domestic Violence Act, 2005 by petitioner.

2] The averments of the Petition is as follows :

The Petitioner Shaik Shahanaz Begum W/o.S.Mohammad Rafi who is the respondent R1 herein lived at Anantapuramu and later shifted their family to Guntakal. She further pleaded that the respondents threatened the petitioner and not provided money towards medicines, house hold articles, rent, food, clothes and shelter and also not provided money for clearing of loans obtained from third parties and for other purposes. The respondents

forcibly necked out petitioner from matrimonial house purposefully poisoned the minds of her children and her children are in the custody of the respondent. Further the respondents are tried to perform her daughter's marriage by name S.Noushad without Petitioner's consent as her daughter S.Noushad was a minor girl at that time. The respondents forcibly taken away her Stridhan of 12 Tulas Gold and cash of Rs.50,000/-. Further the Petitioner got life threat from the respondents as the respondents are trying to kill her and due to fear she is taking shelter at her relatives house and borrowing debts from third parties for huge interest. Therefore petitioner prayed to pass Protection Orders u/s.18 and Residence Orders u/s.19 and Monetary relief u/s.20 and Orders u/s.21 and section compensation or damages u/s.22 in the interest of justice.

3] In rebuttal the respondents No.1 and 2 filed counter and denied all the allegations leveled against them by the petitioner in her petition and pleaded that the respondents never subjected petitioner to domestic violence and never made efforts to perform marriage of minor girl by name S.Nousid who is daughter of Respondent No.1 and Petitioner.

Further respondents contended that the R2 who is paternal grand father of S.Nousid has taken the burden of the entire family ie., petitioner, respondent No.1 their daughter and 5 sons. R2 being old man with future thoughts prepared some jewelery to his grand-daughter S.Nousid for her marriage in the month of February, 2011 and the said jewelery was taken by the Petitioner and she left the house of respondents without informing and went to her sister's house at Anantapur leaving her kids at Guntakal. When the same was questioned by R1, Petitioner became wild and preferred a false complaint against respondents.

Further the marriage of R1 and Petitioner was performed in the year 1988 with the expenses of respondents. Father of Petitioner was a fruit seller on a cart. R2 was a railway employee. R1 started a Business at Anantapur he incurred loss in the said business because of attitude of the Petitioner and shifted to Guntakal where R2 was living. R1 started cool drinks shop at Guntakal and lived along with R2. R2's wife was bed ridden and

Petitioner who is daughter-in-law of R2 and his wife never helped them and stated that her life was ruined as she was brought to Guntakal and Petitioner used to quarrel with R1 and in-laws and insisted R1 to shift to Anantapur for which R1 refused. R2 prepared 6 Tulas of gold jewelery to his grand-daughter for her marriage prospects in the month of February, 2011. The said jewelery was taken by the Petitioner and left the house of the respondents without informing anything to them leaving all her kids at Guntakal.

Further R1 contended that he is living with the help of R2 and his elder son M.A.Arif is working as truck cleaner in IOC depot. R1 is suffering with diabetes and Tuberculosis and R2 being an old man having neurological problem and his wife Rahim Bee is bed ridden with joint pains and the entire family is spending Rs.7 to 8 thousand on medicines and entire family is living only on the pension amount of Rs.12,000/-. Further two kids were studying 4th and 5th classes and the Petitioner neglected all the family members including her small kids and went to her widowed sister's house at Anantapur and damaged the family reputation in their community by preparing some pamphlets with all false and frivolous allegations against R2 who is Muttavalli in Anjuman and his reputation was damaged with the attitude of the Petitioner.

Further the respondents pleaded that they have love and affection towards her and prepared to welcome her if she changes her attitude. Hence prayed to dismiss the petition.

4] PW1 and PW2 are examined on behalf of Petitioner and Ex.P1 is marked. RW1 to RW3 are examined on behalf of respondents and no documents marked on their behalf.

5] Heard arguments.

6] **Now the points for determination are :**

- 01 Whether the petitioner is entitled to the relief of protection against the respondents?
- 02 Whether the petitioner is entitled to the relief of residence from Respondent No.1?
- 03 Whether the petitioner is entitled for the monetary relief from Respondent-1? If yes, to what amount?

- 04 Whether the petitioner is entitled for custody of her daughter S.Noushad from the respondents ?
- 05 Whether the petitioner is entitled for Compensation from the respondents ?
- 06 Whether the petitioner is entitled for recovery of gold jewelery of 12 Tulas worth Rs.3,36,000/- and cash of Rs.50,000/- and Rs.3,86,000/- forcibly taken by R1 and R2 which is her Stridhan as alleged by PW1.

7] Petitioner filed her affidavit and pleaded that she lived with R1 at Anantapur and later shifted the family to Guntakal and prayed to grant the relief u/s.19, 20, 21 & 23 as the respondents subjected her to Domestic Violence and threatened the petitioner and not even provided money towards medicines, house hold articles, rent, food, clothes and shelter and also not provided money for clearing of loans obtained from third parties and for other purposes. The respondents forcibly necked out petitioner from matrimonial house purposefully and poisoned the minds of her children and her children are in the custody of the respondents. Further the respondents tried to perform her daughter's marriage by name S.Noushad without Petitioner's consent as her daughter S.Noushad is a minor. The respondents forcibly taken away her Stridhan of 12 Tulas Gold and cash of Rs.50,000/-. Further the Petitioner got life threat from the respondents as the respondents are trying to kill her and due to fear she is taking shelter at her relatives house and borrowing debts from third parties for huge interest.

8] Petitioner further pleaded that the respondents 2 and 3 instigated Respondent 1 against petitioner and R1 used to beat and insult the petitioner and all the respondents collectively harassed physically, mentally and financially and necked out the petitioner from her matrimonial house and due to stubborn attitude of R1, petitioner lost love and affection of her children and several panchayats were held before elders and Circle Inspector of Police, Guntakal but in vain. Petitioner further contended that the respondents sent ex-counselor of

Guntakal and other anti-elements against Petitioner and they threatened the Petitioner on several occasions. Petitioner contended that she got life threat from respondents. Therefore petitioner prayed to pass Protection Orders u/s.18 and Residence Orders u/s.19 and Monetary relief u/s.20 and Orders u/s.21 and section compensation or damages u/s.22.

9] In the cross examination PW1 admitted that at the time of marriage she was given Mehar of Rs.525/- and her in-laws gave an amount of Rs.10,000/- for purchase of Sarees and 5 Tulas of gold and 40 Tulas of silver to her. She denied that she has taken gold ornaments from Rayachur Rehamatullah and R3 and pledged the same to third parties and spending the amount for her lavish and luxurious life. She further deposed that for thirteen years herself and R1 stayed at Anantapur and later R2 took herself and R1 and their children to Guntakal as they were not able to meet both ends and assured that R2 would take care of them as he was Pensioner. After that they returned to Guntakal for few days and R1 remained idle and later he set up a cool drink shop. She denied that the R2 gave financial assistance to R1 to set up cool drink shop. PW1 adds that she sold away her gold jewelery and gave the amount to R1 to start cool drinks shop. Her elder son is working as a driver in Indian Oil Corporation. The whereabouts of her second son are not known and deposed that except her fourth son all other children are residing with respondents. Her younger son Sameer is aged 11 years. Presently she is residing with her sister PW2. Husband of PW2 is no more. PW2's husband was a milk vendor who is no more. Presently PW2 is idle and she is eking her livelihood and depending upon the income that she derives from rents. PW2 is issue less. When PW1 was residing at Guntakal her fourth Son Thareeq was given to the custody of PW2 and her husband. Thareeq studied up to 10th class and now he is idle. PW1 deposed that she does not know that her husband is

a TB patient and also a diabetic patient. PW1 denied that the respondent No.2 purchased six tulas of gold for her daughter. She admitted that her daughter's age is 17 years. PW1 is willing to join with the R1 provided if he sets up a separate family with her along with her children. PW1 denied that she voluntarily deserted the house and thereby she is not entitled for maintenance from respondents. PW1 denied that the respondents did not try to perform the marriage of he daughter and also denied that the respondents had not sold her 12 tulas of gold and did not take cash of RS.3,36,000/- and denied that she filed this present DVC at the instance of her elder sister and her son Thareeq who is residing with her sister PW2 and to trouble the respondents.

10] In support of the version of PW1, PW2 Shaik Shamshad Begum W/o.Late.Mahaboob Peera is examined and as per her affidavit in chief examination PW1 was living with R1 at Anantapuramu and later they shifted their family to Guntakal and thereafter the Respondents threatened petitioner without providing money towards medicines, house hold articles, rent, food, clothes and shelter and also not provided money for clearing of loans obtained from third parties and for other purposes. Further respondent No.1 used to beat and insult PW1 at the instigation of R2 and R3. They also conducted panchayaths before elders and Circle Inspector of Guntakal but in vain. Further the respondents sent Ex-counselor of Guntakal and other anti-elements against Petitioner and they threatened the Petitioner on several occasions.

11] In the cross examination of PW2, she deposed that PW1 is residing with her at her house presently and PW2 is a home maker and not doing any work and she is surviving on rents and having two houses. One house given for rent and getting rent of Rs.2,000/- and her sister PW1 is not doing any work. After the marriage PW1 joined R1 to lead marital life at Guntakal and at that time husband of PW1 was doing business but she cannot say what business R1

was doing. After six months of the marriage PW1 and R1 came to Anantapuramu and residing along with PW1's parents. Since from the date of marriage the husband of PW1 was not doing any work and was living on the earnings of parents of PW1. At the time of marriage of PW1, PW1's father was getting Rs.10,000/- per month and she denied that PW1 forced R1 for residing in Anantapuramu and brought R1 along with machinery. PW2 further denied for PW1's lavish life the machinery material of R1 was also sold away. PW2 further denied that R2 gave financial support to R1 and arranged for doing milk business. PW2 deposed that she has not attended any panchayath and she knows that R1 is presently running cool drink shop and presently earning Rs.30,000/- per month. PW2 denied that PW1 was presently residing at her house and they are taking services of PW1 and using her amount for their family survival. PW2 further added that PW1 resides beside her house separately.

12] RW1 in his chief affidavit contended that the Petitioner is his wife and their marriage has taken place in the year 1988 and at the time of marriage, parents of RW1 paid a sum of Rs.10,000/- in cash for purchase of Sarees and 5 Tulas of gold and 40 Tulas of silver and costs of the marriage was incurred by the parents of RW1.

13] After marriage Petitioner joined RW1 at Guntakal. RW1 was running a tailoring shop at the time of his marriage with the financial assistance of his father R2. After three months of marriage RW1 shifted his family to Anantapur as Petitioner pressurized RW1. RW1 used to run tailoring shop at Anantapur and due to lavish expenditure of Petitioner, RW1 incurred heavy loss in his business. Petitioner to meet lavish expenditure she pledged the jewelery at Anantapur and the said ornaments were released by repaying the amount by R2. Petitioner visited the house of R3 who is sister of R1 and Petitioner took 2½ tulas of gold and the same was not returned till date. RW1 started milk business with the association of husband of PW2 and incurred loss as PW2's husband not shown fair accounts in the business.

14] R2 took the family of R1 to Guntakal and financed R1 to set up cool drinks shop. Entire family is depending on R2 who is Pensioner. R1 and Petitioner are having six sons and one daughter and all the children were brought up by R2. Mother of R1 is bedridden. Petitioner never attended mother of R1. Petitioner went away from matrimonial house by taking gold ornaments which were prepared by R2 for grand daughter in the month of February, 2011. First son of R1 is working as a truck cleaner and 3rd son Thousif is looking after cool drink shop and 4th son Thariq dropped out his education and living with PW2 and 5th son Nasir studying 5th class and 6th son Sameer studying 4th class and daughter Nousin is aged about 17 years who is looking after her grand mother. R1's 2nd son Asif ran out from home because of the behaviour of Petitioner and children also vexed with the attitude of Petitioner. R1 pleaded that he is sick and depending on his father and sons and he has no source of income.

15] RW1 in his cross examination deposed that Nowshad Ali Khan who is brother of Petitioner and doing fruit business. RW1 admitted that at the time of marriage he was working as a Tailor and blessed with seven children in that six sons and one daughter. RW1 deposed that he has son by name Asif whose whereabouts are not known and 15 years back he left the house and R1 did not prefer any complaint to the police in this regard.

16] RW2 Mohammad Thousif son of RW1 filed chief affidavit on behalf respondents. As per his chief affidavit himself, his father RW1, his brothers and sister were residing at Guntakal along with their paternal grand parents at the house of the paternal grand parents. Previously his mother PW1 was also residing with them at Guntakal, at the evil advices of his maternal aunt his mother PW1 frequently forced his father to leave Guntakal and set up family elsewhere to meet her lavish life because of luxurious temperament of his mother his father incurred losses in his

business. PW1 is not trustworthy and she used to borrow ornaments from the friends and relatives on one pretext or the other and not in a habit of returning the same and she used to pledge the ornaments to meet her lavish expenditure. Because of her attitude now his paternal aunt R3 is not in terms with them as already ones took the ornaments from R3 and pledged the same. At the mercy of his paternal grand father the said gold ornaments were released and handed over to R3. His father R1 is a sick persons disturbed with the attitude of PW1 and R1 is not in a position to contribute any amount to the family. His grand mother is bed ridden and the entire family is depending on Grand father R2. His elder brother M.A.Arif who is working as truck cleaner in IOC department. Their entire family was depending upon the pension of his grand father. PW1 neglected all the family members including small kids and went to the house of PW2 at Anantapuramu. Further PW1 damaged their family reputation in their community by preparing some pamphlets with all frivolous and false allegations against his paternal grand father.

17] In the cross examination he deposed that he is aged about 21 years and working as mason. He further deposed that he does not know how much loss his father incurred in his business. He adds that his father is doing milk business. He does not know the names of the persons from whom his mother PW1 took gold ornaments. He does not know whether PW1 pledged the gold ornaments. He deposed that he does not know whether his grand father released the gold ornaments pledged by PW1. He did not file any document relating to health condition of his father R1. His mother is suffering with Dermatology decease, B.P and Sugar. He denied at the instance of his father RW1 he deposed against PW1. He further denied that his father RW1 beat his mother in drunken state. He adds that his father is not having a habit of

consuming alcohol and he further denied that his father is a gambler. He denied that his father RW1 and his grand father R2 and aunt R3 forcibly taken money and jewelery belongs to PW1 and forcibly thrown away PW1 from the house. He further denied his father RW1 and his grand father R2 and aunt R3 speaking false against PW1 and they themselves deserted PW1.. His sister Noushin is younger sister about two years back her age was 15 years. He further denied that RW1, R2 and R3 forcibly tried to perform marriage of Noushin to one person who is resident of Bellary and doing rice business. He deposed that still his sister is unmarried.

18] RW3 S.Noushin D/o.Shaik Mohammad Rafi [RW1] filed her affidavit stating that she is aged about 18 years, residing at Porter lines, Guntakal. As per her chief affidavit herself, her father RW1, her brothers were residing at Guntakal along with their paternal grand parents at the house of the paternal grand parents. Previously her mother PW1 was also residing with them at Guntakal, at the evil advices of her maternal aunt her mother PW1 frequently forced her father to leave Guntakal and set up family elsewhere to meet her lavish life because of luxurious temperament of her mother, her father incurred losses in his business. PW1 is not trustworthy and she used to borrow ornaments from the friends and relatives on one pretext or the other and not in a habit of returning the same and she used to pledge the ornaments to meet her lavish expenditure. Because of her attitude now her paternal aunt R3 is not in terms with them as PW1 once took the ornaments from R3 and pledged the same. At the mercy of her paternal grand father R2 the said gold ornaments were released and handed over to R3. Her father R1 is a sick persons disturbed with the attitude of PW1 and R1 is not in a position to contribute any amount to the family. Her grand mother is bed

ridden and the entire family is depending on Grand father R2. Her elder brother M.A.Arif who is working as truck cleaner in IOC department. Their entire family was depending upon the pension of her paternal grand father. PW1 neglected all the family members including small kids and went to the house of PW2 at Anantapuramu. Further PW1 damaged their family reputation in their community by preparing some pamphlets with all frivolous and false allegations against her paternal grand father.

19] Further after retirement her grand father on receiving retirement benefits prepared some jewelery for her marriage prospects but the same was also taken away by her mother PW1 when PW1 went to PW2 by discarding their family. Her father RW1 and R2 never tried to perform her marriage before attaining majority even now they are in such a condition that they cannot perform her marriage as the jewelry is taken away by PW1. In the cross examination RW3 deposed that she studied up to 7th standard and she was born in the year 1986. They are seven children, one elder brother is working as a Truck driver and another elder brother is running a cool drink shop and she does not know when her grand father retired from services. She does not know the amount received by her grand father as retirement benefits. She does not know whether any jewelery prepared by her grand father for her sake. R3 is her aunt she is living separately with her husband. She has not seen her mother PW1 taking jewelry of R2 and she does not know whether PW1 pledged the jewelry. She has not filed any document regarding health condition of RW1. She denied that RW1 used to beat PW1 in drunken state and also denied that Respondent tried to pour Kerosene on PW1. She further deposed that no panchayath was held at Guntakal in the presence of elders of their community. She further denied that the respondents beat PW1 when she came to see her

brothers. She further denied that she is deposing false at the instance of her father RW1. In the re-chief examination of RW3 by the respondents counsel for the question put before her that whether RW1 deserted PW1, she deposed that PW1 herself deserted RW1. In the re-cross examination of the counsel for petitioner she deposed that she filed her chief affidavit stating that her mother PW1 deserted RW1 but she deposed that she does not know the contents of her chief affidavit.

20] The learned counsel for the Petitioner argued that R2 died and there by case against R2 was not pressed and R3 since from the beginning did not appear before the court and publication was made duly against R3 and R3 was called absent and set exparte and the present case is only against R1. The learned counsel for the Petitioner further argued that RW1 is running a cool drink shop and doing milk business and also having own house though having means and capacity neglected PW1.

21] R1 and R2 after receipt of notice appeared before this court and filed their counters. R3 remained exparte. R1 and R2 cross examined PW1 and PW2 and after completion of evidence of the evidence of the Petitioner R1 filed his chief affidavit and examined as RW1 and was cross examined by the Petitioner. On behalf of R1 and R2, RW2 Mohammad Thousiq S/o.Shaik Mohammad Rafi [R1] and RW3 Nousheen D/o.Shaik Mohammad Rafi [R1] were examined and were also cross examined by the Petitioner after closure of the respondents evidence when the matter was coming for arguments the Petitioner filed Crl.M.P 888/2014 for recall of PW1 for marking of her medical certificates. When this court issued notice to the respondents, they received notices but even after sufficient adjournments they did not file counters and forfeited chance to file counters and set exparte on

23-12-2014. In the mean time on 24-11-2014 as there was no representation this court set R1 and R2 ex parte in main DVC. Then this court examined PW1 and marked her medical certificates as EX.P1. Afterwards respondent did not appear for arguments, this court after giving sufficient adjournments heard the arguments of the Petitioner. Since respondents 1 and 2 were set ex parte after chief and cross examination of both parties this order should not be treated as ex parte and should be treated as contest order.

22. Points No.1 to 3,5 & 6:

- 01 Whether the petitioner is entitled to the relief of protection against the respondents?
- 02 Whether the petitioner is entitled to the relief of residence from Respondent No.1?
- 03 Whether the petitioner is entitled for the monetary relief from Respondent-1? If yes, to what amount?
- 05 Whether the petitioner is entitled for Compensation from the respondents ?

23] As per the arguments and the evidence on record there is no dispute with regard to marriage of PW1 and R1 and there is no dispute that they are having seven six sons and one daughter out of their wedlock. It is also admitted by PW1 that her fourth son by name Thareeq was given in custody of PW2 as she was issue less. There is no dispute that the remaining children are with their father [R1]. Among six sons one child by name Asif left the house and whereabouts are not known.

24] The plea of the Petitioner is that the respondents threatened her without providing money for her basic needs and forcibly neck out her and also poisoned the minds of their children and also forcibly taken her gold of 12 Tulas and Cash of Rs.50,000/- which is her Stridhan. In the cross examination she deposed that at the time of marriage she was given a Mehar of Rs.525/- and Rs.10,000/- cash for purchase of

Sarees, 5 Tulas of Gold and 40 Tulas of Silver to PW1 and soon after the marriage they led marital life at Guntakal and R1 was sitting idle without doing any work. Later their family was shifted to Anantapuramu from Guntakal. In support of the version of PW1 her sister PW2 was examined and she deposed in his cross examination that her sister is residing with her and later she denied and deposed that PW1 is residing beside the house of PW2. On perusal of evidences of PW1 and PW2 it clears that she is not residing with RW1. But the plea of the Petitioner is that the respondents necked out her without providing any food or shelter and poisoned the minds of her children but the respondents examined RW2 and RW3 who are her children. They themselves deposed before this court in their chief examination that their mother PW1 used to borrow gold ornaments from friends and relatives on one or other pretext and used to pledge the same for her lavish expenditure. As PW1 has borrowed gold ornaments from R3 and pledged the same, due to which there are no good terms in between their family and R3. RW2 in his cross examination voluntarily added that his father is doing milk business. As there is no dispute with regard to relationship between PW1 and R1 and as it a bounden duty being husband R1 has to provide maintenance for PW1. Though the counsel for the Petitioner argued that the respondent is doing tailoring works and running cool drink shop, no document is filed in this regard. Since RW2 deposed in his cross examination that his father is doing milk business and he has to provide maintenance and shelter for PW1 as she is unable to maintain herself. Further the contention of the respondents is that R1 is suffering from diabetes and Tuberculosis. But in this regard they did not file any documents. But PW1 filed medical reports in support of her claim. Further RW1 in his continuation of cross examination admitted that "It is

true the house number 6/224 situated in Guntakul belongs to me". So it shows that R1 is having sufficient means and capacity but he neglected to provide maintenance and shelter to Petitioner.

25] RW3 in her cross examination admitted that "No panchayath was held at Guntakal in the presence of elders of their community". So it seems that RW1 did not made any effort and did not give any opportunity to PW1 to join him. Though respondents contended that due to lavish luxuries PW1 was pledging the gold ornaments taken by her friends and relatives but they did not file any documentary evidence in this regard. But the capacity of the R1 has to be taken in to consideration at the time of granting maintenance, further in the present case admittedly all the children are in the custody of R1 and he has to maintain himself and his children also.

26] Though the plea of PW1 is that the respondents necked out from the house and threatened her with dire consequences her children RW2 and RW3 did not speak in support of Petitioner with regard to harassment alleged to be meted out by Petitioner. Further RW2 and RW3 deposed that due to their mother's lavish luxurious their mother PW1 was causing disturbance in the family. PW1 also deposed in her cross examination that for 13 years herself and RW1 stayed at Anantapuramu and later R2 took R1 and PW1 to Guntakal as they were not able to meet both ends and assured that he would take care of her wellbeing as he had pension. Further RW2 deposed in his chief and cross examination that RW1 has no habit of consuming alcohol. RW3 deposed in her cross examination that their father never poured Kerosene on PW1 and never tried to kill PW1. RW2 and RW3 in their cross examination that their father never beat PW1 in drunken state. By this it shows that the threat alleged by the PW1 is only for the purpose of this case. Assuming that

RW2 and RW3 can be influenced by RW1 but being children of PW1 they can depose in favour of PW1 but they did not do so. Hence this court is of the opinion that the threat alleged by PW1 is not proved and PW1 not entitled protection u/s.18 of DVC. But though the respondents contended that PW1 herself left the matrimonial home, no effort was made by RW1 to live together and being the husband of PW1 he has to provide basic necessities.

27] With regard to the compensation since from the date of separation RW1 did not provide any maintenance or shelter to PW1 further he did not put any effort for reunion and left PW1 to her fate. Further PW1 also filed medical reports pertaining to her ailment which is marked as Ex.P1. As such this court is of the opinion that compensation has to be awarded to PW1. But the compensation should be given basing on the capacity of the respondent 1. As RW1 is not having any employment this court is of the opinion that a cash of Rs.5,000/- should be given to PW1 as compensation.

28] As above discussion points 2, 3 and 5 are decided in favour of the Petitioner and Point No.1 is decided against the Petitioner.

Point No.4 Whether the petitioner is entitled for custody of her daughter S.Noushad from the respondents ?

29] RW3 is daughter of PW1 and RW1. As per the affidavit of RW3 she is a major aged about 18 years as on the date of her evidence. She herself deposed before this court in her cross examination that she was born in the Year 1986 and she is a major. In her chief examination she deposed that her father RW1 and her Grand father R2 never tried to perform her marriage before attaining majority and further RW3 deposed that her mother PW1 taken away her gold ornaments which were prepared by R2 for her marriage Prospects and as such their

financial condition does not permit them to perform her marriage without the said gold ornaments. Further PW1 in her cross examination on 03-07-2012 admitted that "my daughter is aged about 17 years. So it clearly shows that her daughter Noushin is a major and there is no necessity to given any direction to live with PW1 or RW1 as she is major, she can decide where she wants to live.

As above discussion this point is answered against the Petitioner and custody of her daughter by name Noushad cannot be given to PW1 as she is major.

30] Point No.6 : Whether the petitioner is entitled for recovery of gold jewelery of 12 Tulas worth Rs.3,36,000/- and cash of Rs.50,000/- and Rs.3,86,000/- forcibly taken by R1 and R2 which is her Stridhan as alleged by PW1.

31] The plea of the PW1 is that the respondents are forcibly taken away 12 Tulas of gold and cash of Rs.50,000/- which is her Stridhan but in the cross examination of PW1 the counsel for the respondent put suggestion that the respondent had not sold away 12 Tulas of gold forcibly and has not taken away cash of Rs.3,36,000/- and at the instance of her son Thariq and PW2, PW1 is deposing false. The same was denied by PW1. Further on perusal of evidence PW1 she also in her chief affidavit deposed that respondents forcibly taken 12 Tulas of Gold and cash of Rs.50,000/-which is Stridhan of PW1. To substantiate the above plea PW1 did not file any documentary evidence in support of her claim. Further the counsel for the Petitioner elicited nothing from RW1 to RW3 any evidence in favour of the Petitioner in this regard. Hence this Court is of the Opinion that PW1 has not proved that the respondents forcibly taken 12 Tulas of gold worth Rs.3,36,000/- and cash of Rs.50,000/- for PW1 and point is answered against the Petitioner.

32] Though the Petitioner shown her sister in law as R3 in her Petition and claimed relief against R3 but no evidence was brought

against R3 by the Petitioner in her evidence and nothing was elicited against R3 from the evidences of RW1 to 3. Hence the Petitioner is not entitled any relief against R3

33] In view of the above discussions, this court is inclined to allow this petition partly.

34] In the result, Petition allowed and the respondent is hereby directed to provide shelter to the petitioner at shared house hold.

Further respondent is directed as follows :

a] restraining the respondent from dispossessing or in any other manner disturbing the possession of the aggrieved person from the shared household, whether or not the respondent has a legal or equitable interest in the shared household ;

b] directing the respondent to remove himself from the shared household;

c] restraining the respondent or any of his relative from entering any portion of the shared household in which the aggrieved person resides;

d] restraining the respondent from alienating or disposing of the shared household or encumbering the same;

e] *restraining the respondent from renouncing his rights in the shared household except with the leave of the Magistrate;*

or R1 is directed to provide alternative residence for Petitioner by paying rents if the Petitioner is not provided shared house hold.

35] A monetary relief u/s 20 (d) of the PWDV Act is granted hereby in favor of the petitioner whereby the respondent-1 is directed to pay Rs.1,500/- to petitioner on or before 10th of every month towards her maintenance from the date of order.

36] under section 21 this point is answered against the Petitioner and custody of her daughter by name Noushad cannot be given to PW1 as she is major.

37] Section 18 is answered against the Petitioner in view of the above discussion.

38] Compensation under section 22 is answered in favour of the Petitioner whereby the respondent-1 is directed to pay Rs.5,000/- to the petitioner towards the compensation towards her medical expenses payable within two months from the date of this order.

[Typed to my dictation by Personal Assistant, corrected and pronounced by me in Open Court, this the 29th day of October, 2015.]

Spl. Judl.Magistrate of I Class,
Proh. & Excise Court,
FAC/Spl.Mobile Court.
Anantapuramu.

APPENDIX OF EVIDENCE
NO OF WITNESS EXAMINED

FOR PETITIONER

PW1. Shaik Sahanaj Begum.

FOR RESPONDENT

RW1 Shaik Mohammed Rafi.

RW2 Mohammad Thousif.

RW3 S.Noushin.

NO.OF EXHIBITS MARKED

Ex.P1. Medical reports of PW1.

Spl. JFCM.
FAC/Spl.Mobile Court.
Anantapuramu.

Copy to

The Petitioner –
The Protection Officer/Project director (ICDS), Anantapuramu,
The Respondent through Protection officer/Court.