

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

PRESENT : **S.C.RAGHAVENDRA.**

III Addl. Judicial Magistrate of First Class,
Chittoor.

Thursday, the Twelfth day of January, 2017.

D.V.C.No. 31 of 2016

Between

T.V.Vyshnavi, D/o T.Venkatesan,
W/o N.Govindaraj, age 36 years,
D.No.16-370, Vepamanu Street, Chittoor. ... Petitioner

And

1. N.Govindaraj, age 38 years.
2. N.Kumaresh, age 33 years.
Both are residents of D.No.105,
14th Main, H.M.T Layout,
Vidyranyapura, Bangalore. ... Respondents

This case is coming on 12.01.2017 for hearing in the presence of the **Sri Syed Mahaboob Basha**, Advocate for Petitioner, and the Respondents remained exparte, and having stood over to this day for consideration; this Court made the following:

ORDER

This petition is filed by the petitioner under Section 9(b) and Section 37(c) of Protection of Women from Domestic Violence Act, 2005 (herein after referred as 'Act 2005'), seeking reliefs under Sections 18, 19, 20 and 22 of the Act 2005.

2. The brief averments of the petition are as follows :

The petitioner is the wife of 1st respondent. 2nd respondent is the brother of 1st respondent. Their marriage was performed on 27.08.2015, as per Hindu rites and customs. At the time of fixing the marriage, the maternal aunt of R.1 demanded the parents of petitioner to present 65 sovereigns of gold to the bride and 15 sovereigns of gold to bridegroom.

But her parents convinced them and gave 55 sovereigns of gold in total including 5 sovereigns in it to the bridegroom. In addition, he also presented silver articles, household articles and Rs.15,000/- for purchasing clothes as demanded. During the first night, the 1st respondent postponed the consummation of marriage. After 15 days, the first respondent confessed before her that he is impotent and threatened her to conceal his condition otherwise he will ruin her life by blaming her. The petitioner was married at the age of 35 years and her parents are old-aged persons (Father aged about 82 years and mother aged about 75 years). Hence, the petitioner thought that she should not be a burden to her parents anymore and she did not reveal about her marital life and continued to live mechanically. The 1st respondent was impotent even prior to the marriage and after informing the petitioner, his attitude was changed drastically and started to harass her mentally and physically. He used to comment her appearance and beat her by saying that if he had married another woman, he might have got more gold and household articles. The petitioner was constrained to remain in the house and was prevented from talking with her parents. Her cell phone was taken and the 1st respondent use to switch on loudspeaker when she was allowed to talk her with parents. The 1st respondent was under apprehension that his health condition will be disclosed if the petitioner was allowed to move out and talk to any others. He harassed her physically in many ways and prevented her from talking with her parents and siblings. On 22nd December 2015, the father of petitioner was admitted in C.M.C.Hospital, Vellore under serious condition. The 1st respondent did not allow the petitioner to visit her father in spite of requesting him in many ways. Finally, he throttled her neck. He denied

her to leave the home stating that her parents did not give any extra dowry, hence she is not entitled to see them. On 26.12.2015, her mother, sister and other relatives came to Bangalore and requested R.1 to send her for seeing her father. But R.1 denied by behaving very arrogantly against them. On 29.12.2015, her mother and other women folk came to Bangalore and requested to send her to the hospital. Finally, he agreed due to pressure insisted upon him, but allowed her to go to Chittoor by 10.00 P.M., on the same day and on the next day morning at 6.00 A.M., she should return to Bangalore. With the said condition, he showed some new photographs of her taken without her knowledge and threatened that if she reveals his medical condition, he would upload them in the internet and publicize them in Chittoor. The petitioner was shocked with the attitude of the respondent and she started to Chittoor. The 2nd respondent also threatened this petitioner that if any untoward peril happens to his brother, he would not hesitate to exterminate her parents and siblings. Accordingly, she was sent to Chittoor with wearing apparel. The petitioner came to her parents' home and bursted before her family members. Accordingly, the petitioner was subjected to inestimable agony and her life was ruined in all the ways. Therefore, the petitioner is seeking maintenance of Rs.15,000/- per month, return of her gold ornaments and compensation of Rs.50,00,000/-.

3. Respondents 1 and 2 remained exparte.

4. On behalf of petitioner, petitioner examined herself as P.W.1 and no documents were marked on her behalf. On behalf of respondents, no oral or documentary evidence was adduced.

5. Heard both sides.

6. After going through the petitioner's case, the points that arose for determination are :

1. *Whether the petitioner herein was subjected to domestic violence by the respondents herein as defined under Section 3 of D.V.Act ?*
2. *Whether the petitioner is entitled to the reliefs sought by her under Sections 18, 19, 20 and 22 of Protection of Women from Domestic Violence Act ?*
3. *To what extent ?*

7. **POINTS :**

It is the case of the petitioner that the respondents herein subjected her to domestic violence by harassing her mentally and physically. Hence, she is seeking the reliefs as provided under sections 18, 19, 20 and 22 of Act.

8. To prove her case, the petitioner has examined herself as P.W.1.

9. During the course of trial, she deposed by reiterating the petition averments in toto. The petitioner is the wife of 1st respondent. 2nd respondent is the brother of 1st respondent. Their marriage was performed on 27.08.2015, as per Hindu rites and customs. At the time of fixing the marriage, the maternal aunt of R.1 demanded the parents of

petitioner to present 65 sovereigns of gold to the bride and 15 sovereigns of gold to bridegroom. But her parents convinced them and gave 55 sovereigns of gold in total including 5 sovereigns in it to the bridegroom. In addition, he also presented silver articles, household articles and Rs.15,000/- for purchasing clothes as demanded. During the first night, the 1st respondent postponed the consummation of marriage. After 15 days, the first respondent confessed before her that he is impotent and threatened her to conceal his condition otherwise he will ruin her life by blaming her. The petitioner was married at the age of 35 years and her parents are old-aged persons (Father aged about 82 years and mother aged about 75 years). Hence, the petitioner thought that she should not be a burden to her parents anymore and she did not reveal about her marital life and continued to live mechanically. The 1st respondent was impotent even prior to the marriage and after informing the petitioner, his attitude was changed drastically and started to harass her mentally and physically. He used to comment her appearance and beat her by saying that if he had married another woman, he might have got more gold and household articles. The petitioner was constrained to remain in the house and was prevented from talking with her parents. Her cell phone was taken and the 1st respondent use to switch on loudspeaker when she was allowed to talk her with parents. The 1st respondent was under apprehension that his health condition will be disclosed if the petitioner was allowed to move out and talk to any others. He harassed her physically in many ways and prevented her from talking with her parents and siblings. On 22nd December 2015, the father of petitioner was admitted in C.M.C.Hospital, Vellore under serious condition. The 1st respondent did not allow the petitioner to visit her father in spite of

requesting him in many ways. Finally, he throttled her neck. He denied her to leave the home stating that her parents did not give any extra dowry, hence she is not entitled to see them. On 26.12.2015, her mother, sister and other relatives came to Bangalore and requested R.1 to send her for seeing her father. But R.1 denied by behaving very arrogantly against them. On 29.12.2015, her mother and other women folk came to Bangalore and requested to send her to the hospital. Finally, he agreed due to pressure insisted upon him, but allowed her to go to Chittoor by 10.00 P.M., on the same day and on the next day morning at 6.00 A.M., she should return to Bangalore. With the said condition, he showed some new photographs of her taken without her knowledge and threatened that if she reveals his medical condition, he would upload them in the internet and publicize them in Chittoor. The petitioner was shocked with the attitude of the respondent and she started to Chittoor. The 2nd respondent also threatened this petitioner that if any untoward peril happens to his brother, he would not hesitate to exterminate her parents and siblings. Accordingly, she was sent to Chittoor with wearing apparel. The petitioner came to her parents' home and bursted before her family members. Accordingly, the petitioner was subjected to inestimable agony and her life was ruined in all the ways.

10. As per the petitioner's case, she is the wife of R.1. She deposed about her marriage, dowry given to her husband and the impotency of him. She also deposed about the harassment undergone by her in the hands of an impotent husband and constraining her in the house and by preventing her to communicate with her parents and siblings under the apprehension that his health condition would be disclosed. She also

deposed that her husband took her nude photos without her knowledge and threatened her to publicize them in the internet and by way of posters in the public. That she came to her parents home after several continuous and strenuous efforts to visit her father who was admitted in C.M.C Hospital, Vellore and disclosed her agony and thereby she was able to report before police and approached Woman and Child Welfare Department, Chittoor.

11. As per the record, it is observed that R.1 and R.2 made their appearance on 29.06.2016 through their counsels. After filing separate vakalats for R.1 and R.2 on 29.06.2016, the matter was posted to 15.07.2016 for filing the counters of R.1 and R.2. R.1 and R.2 requested time to file counters and dragged on the matter up to 01.09.2016 stating that they need translated copies of petition and documents into Kannada language. Accordingly, the court has ordered the petitioner and on 19.09.2016, the translated copies were supplied to the respondents. But again, the respondents failed to file the counter and on 04.10.2016, costs were imposed on them. On 18.10.2016, additional costs were imposed for filing counters. On 04.10.2016, 18.10.2016 and 26.10.2016, R.1 and R.2 failed to appear before this court either personally or through their advocates. Hence, on 26.10.2016, R.1 and R.2 were set exparte. On 04.11.2016, the evidence of petitioner was recorded as P.W.1 and the matter stood for consideration till this day by awaiting for respondents and to give opportunity for them to contest the case. But, the respondents did not made their appearance till now. It shows the attitude of the respondents and regard towards the proceedings of the

court in which they are having knowledge. Thereby, the evidence of P.W.1 has remained unchallenged.

12. After considering the evidence of P.W.1 and the version of petitioner's counsel, the plight of the petitioner is understood. It is observed that the petitioner was in a very pitiable condition whose life was ruined for the sake of marrying the 1st respondent. It is observed that the petitioner has undergone much emotional and physical abuse in the hands of the respondent as defined under Section 3 of Domestic Violence Act.

13. In the above circumstances, any prudent man can understand that the maintenance and the compensation in monetary terms would not redress her life aptly. But after considering the facts and circumstances of the case along with the financial status of the 1st respondent that he is working in a travels company and earning Rs.25,000/- besides having immovable properties worth about 4 crores at Bangalore, this court is of considered view that the petitioner should be redressed accordingly.

14. Accordingly, the 1st respondent is directed to pay a maintenance of Rs.10,000/- per month. In addition, the 1st respondent is also directed to pay a compensation of Rs.10,00,000/- towards the mental agony caused to the petitioner and for ruining her life. The 1st and 2nd Respondents are hereby restrained by way of protection orders directing them to not to interfere with the life of petitioner in any manner.

15. There is no sufficient material with regard to the dowry given to respondents and therefore the relief of returning dowry of gold, jewels, silver articles and household articles is hereby denied.

16. In the result, the petition is partly allowed,

- 1) R.1 is directed to pay maintenance of Rs.10,000/- per month to the petitioner from the date of petition.
- 2) R.1 is also directed to pay a compensation of Rs.10,00,000/- towards the domestic violence caused to the petitioner.
- 3) R.1 and R.2 are hereby restrained by way of protection orders directing them to not to interfere with the life of petitioner in any manner.
- 4) The other reliefs sought by the petitioner are hereby denied.

Typed to my dictation to Personal Assistant, corrected and pronounced by me in the open court on this the 12th day of January, 2017.

Sd/- S.C.RAGHAVENDRA.
III Addl. Judl. Magistrate of I Class,
Chittoor.

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

On behalf of Petitioner :

On behalf of Respondents:

P.W.1 : Smt.T.V.Vaishnavi

None.

DOCUMENTS MARKED

On behalf of Petitioner : Nil.

On behalf of Respondents : None.

Sd/- S.C.RAGHAVENDRA.
III A.JFCM,
CTR.