

**IN THE COURT OF THE METROPOLITAN MAGISTRATE,  
TRAFFIC COURT – III, AT BENGALURU**

**DATED THIS 16<sup>TH</sup> DAY OF JUNE 2020.**

**PRESENT : Smt. VISMITHA MOORTHY., B.A.L., LL.B.,  
M.M.T.C-III, Bengaluru.**

**Crl.Misc.No.9/2014**

**PETITIONER**

(By Sri. K.J.G., Adv.,)

V/s

**RESPONDENTS**

**1.**

**2.**

**3.**

4.

5.

(R-1 : By Sri.M.S., Adv.)

(R-2 to 5 : By Sri.K.D.K., Adv.)

### **J U D G M E N T**

This petition is filed by the petitioner under Sec.12 of the Protection of Women from Domestic Violence Act, 2005, seeking relief under Sec.18, 19, 20 and 22 of the said Act.

#### **2. The brief facts of the case of petitioner is as follows:**

The marriage between the petitioner and respondent No.1 was solemnized on 06.12.2012 at Gangamma Thimmaiah Inn & Convention Centre, Basaveshwaranagar, Bengaluru and the marriage was performed as per Hindu rites and customs and the said marriage was an arranged marriage. She further contends that their engagement ceremony was held on 05.08.2012 at Basaveshwaranagar, Bengaluru. Initially the

marriage date was fixed on 13.02.2013, but it was preponed to 06.12.2012 as the 2<sup>nd</sup> respondent's delivery date was given in the month of February-2013. She further contends that at the initial stage everything went well between she and respondent No.1 till 16.11.2012 when the respondent No.2 came back from Canada and came to stay with the respondent No.1 in Bengaluru. On 16.11.2012 the respondent No.1 called her and told her that the respondent No.2 was not happy with their marriage and he spoke very rudely and insulted her. Later, this was worried her parents and a meeting was arranged between both the family members on 18.11.2012 and in the said meeting the respondent No.1 apologized for his mistakes and his rude behavior and promised not to repeat the same. After the meeting one Kumaraswamy and respondent No.3 told her parents that they are running financial crisis and need an amount of Rs.5,00,000/- immediately and they also told that if they do not arrange the money they would not be able to continue with the marriage. She further contends that two days prior to marriage the respondent No.3 called her parents and added up few more items in the wedding menu, for which they have obliged. Further it is contended that after the marriage ceremony and before leaving to Hassan the respondent Nos.2

and 3 told her parents that immediately they need Rs.5,00,000/- and forcibly took the money from her parents and as per the demand made by the respondent a brand new car i.e., Hondai I20 Astacrdi was given to the respondent, which is a fully loaded car. She further contends that after the marriage she along with the respondent went to Hassan and as per the customs their nuptial ceremony which was supposed to take place was postponed to February-2013, as there was no auspicious day. It is further contended that on 09.12.2012 "beegara howthana" was arranged at respondents' house and in which the petitioner's parents have participated and there they got insulted by the respondents. It is further contended that the respondent No.3 without informing her taken the brand new I20 car and because of his reckless driving he hit the same to the barrier and got damaged the car and he told the respondent No.1 to claim the insurance by submitting petitioner's driving licence. It is further contended that on the same day she and the respondent No.1 were taken to their house and where the respondent No.1 has expressed his willingness to stay in the same room and there their marriage was consummated. Further it is contended that on 11.12.2012 the respondent No.1 left her house along with his cousin Neethu

and his family members have informed that they have going to come on 14.12.2012 to take the couple to Hassan officially which was agreed by both the families. It is further contended that on 14.12.2012 the respondents came to petitioner's house had lunch and happily took her to Hassan and there she was subjected to severe torture and harassed by the respondents and she was forced to tell her parents to get costly gifts to respondent No.2 on the day of her Seematha and it is further contended that after Seemantha ceremony of respondent No.2 she came back to Bengaluru with her parents and there she stayed till 25.12.2012. It is further contended that on 25.12.2012 the respondent No.1 came to her house and took her to his house at Vrindavan Garden apartment, Hebbala, Bengaluru. It is further contended that even after the marriage she wanted to continue with her studies, but the respondent NOs.2 and 4 interfered with this matter and strictly told respondent No.1 not to allow her to write any PG entrance exam and they have also told her that she has to go back to Hassan to serve respondent No.2 and when she expressed her wish to continue her study she was subjected to severe torture and harass by the respondents. However, the respondent No.1 had agreed and permitted her to continue with studies. Hence, she had applied

for her PG entrance exam. She further contends that on 26.01.2013 she got diarrhea and she was permitted to go back to her parents house and to meet doctor. On 02.02.2013 she called the respondent No.2 to wish after her delivery and by that time the respondent No.4 received the call and spoke very rudely to her and abused her for not going to Hassan. Later, the respondent No.2 called her and abused her for not going to Hassan and told her not to continue her studies and instead asked her to come to Hassan and to serve her. On 06.02.2013 when she told the respondent No.1 about her CT scan report the respondent No.1 had told her that he is going to speak to Gastroenterologist about her health and later after medical examination she was diagnosed to have crohnis disease and the same was informed to respondent No.1 and he also came to know that the said disease was diagnosed only after their marriage i.e., during February 2013 and at that time respondent No.1 also told he will take care of her, but later he started behaving very weirdly and further he told petitioner that according to doctor she has to live a dependent life for 2 years and she will be bedridden for ever and she cannot take up her PG seat and she cannot lead normal life and she is going to die due to bleeding and he demoralized her and because of which she had

decided to stop her treatment and thereafter Dr. Prasanna who was treating her assured her that she will recover and will lead normal life. Later she continued her treatment and got gross improvement, but respondent No.1 was not happy with that instead he forced the doctors who were treating her to give in writing that she can never conceive, can never lead a normal sexual life, but they have refused as it is against ethics and when she heard about the said behavior of respondent No.1 she suffered mental agony. Later when she become normal she went to respondents' house. Though he accepted her to enter matrimonial house he started abusing, torturing and harassing her for no reasons. Further it is contended that during April 2013 respondent Nos.2 to 5 came to their house and they have snatched all her jewellerys and tortured her. Further on 02.05.2013 respondent No.1 throw her out of her matrimonial house and all the efforts made by her and her family members to rejoin the respondent No.1 was miserably failed. It is further contended that the respondent No.1 by suppressing all the material facts filed petition for annulment of marriage against her in MC No. 1607/2013 by making false grounds and in turn she had also filed a petition for restitution of conjugal rights in MC No.4150/2013. Further it is contended that the respondents

have started to defame her and her parents. Further she contends that respondent No.1 has updated his profile in Bharath Matrimony though the MC petition was pending before the family court. It is also contended that petitioner's mother has tried to sought out the issues, but the respondents have not showed any interest to sought out the issues. Instead, they have rudely told they are not interested to rejoin the petitioner and respondent No.1. It is also contended that she had also lodged complaint against respondent Nos.2 to 4 for defaming her. It is also contended that the respondent Nos.2 to 4 have also caused her domestic violence by demanding for dowry. The respondent No.2 ill-treated her and she always used to mislead and instigate respondent No.1 not to rejoin the petitioner. It is further contended that she has been subjected to severe acts of domestic violence by way of physical, emotional, verbal and financial abuse. Hence, this petition.

3. After the registration of petition, notice has been issued to the respondents. After the service of said notice, respondents appeared before this court through their counsels and filed their statement of objections and in the statement



of objections the respondents have admitted the relationship between the petitioner and respondent No.1 and denied all other allegations made by the petitioner and contends that they have told petitioner's parents that they would not neither expect any dowry nor grand wedding from petitioner's side. It is further contended that before the marriage nothing was disclosed about the petitioner's health condition and before the marriage respondent No.1 has expressed his desire to meet petitioner her parents have not allowed them to meet. However, later he met the petitioner and by the time when he met the petitioner she was found sick and when he questioned about her health condition she replied that she was very healthy. It is further contended that soon after the engagement the behavior of the petitioner had changed drastically and she became very rude and used to fight with the respondent No.1 over the phone for silly reasons and because of that reason there was no much conversation between them till their marriage. It is further contended that after their wedding the petitioner and respondent have went to Hassan and as per the customs on the same day the nuptial function had to be took place, but their marriage was not consummated. It is further contended that on 09.12.2012 as a custom the respondent and his

family have went to petitioner's house and as per the customs again their nuptial ceremony was not took place, as there was no availability of auspicious day. The respondent No.1 had stayed at petitioner's house for three days. It is further contended that as the petitioner had not accompanied him he alone went back to his house and he was forced to go back to his work as the petitioner was in the least interested with him. It is further contended that whenever the respondent No.1's mother called the petitioner's mother and suggested to arrange for nuptial ceremony they were came on postponing the said ceremony as there was no auspicious date. It is further contended that all along after the wedding the petitioner has been staying with her parents and least interested to have any interaction with the respondent. On several occasions the respondent No.1 tried to call the petitioner she used to avoid to meet him. It is further contended that on 10.01.2013 the respondent No.1 wanted to take petitioner out, as it was her birthday and the petitioner agreed to go with him, but she has not showed any interest towards him. It is further contended that during the year 2013-January the petitioner's father had called respondent No.1 and informed that she had fallen from the stairs and broken her leg and was required

to under bed rest for minimum one month and hence they are intending to postpone nuptial ceremony. It is further contended that when the respondent No.1 had went to petitioner's house he found that there was no fracture caused to petitioner and when the respondent asked for clinical evidence they have denied to share with him. It is further contended that on 06.02.2013 the respondent No.1 called petitioner to talk to her about their marriage consumption, the petitioner has avoided him and at the same time she had expressed she has to reveal something to him and there she revealed that she has crohn's disease and she was suffering from crohnic diarrhea for past 3 - 4 weeks, further she also revealed that it was there before her marriage and usually it was never more than 2 weeks. But this time it was not stopping, by listening to that the respondent No.1 could not believe this to be true, but after confirming the diagnosed crohn's disease the respondent No1 was mentally disturbed and shocked. He further contends that the petitioner tried very hard to avoid the respondent No.1 to suppress her disease and also to avoid him from meeting the doctors who were treating her. It is further contended that the respondent and his family have went to petitioner's house to question about the same, but instead

of accepting their fault they started quarreling and shouting on the respondents and they have also threatened them that they would go to any extent to harm them. The petitioner and her parents have abused and intimidated the respondents. It is further contended that the petitioner is a MBBS doctor and aware about her health condition, but suppressed the facts for the purpose of marriage. The petitioner and her family members have made respondents made scape goat as they learned respondent No.1 do not have father for support and he is from very decent family and he is a innocent person planned to cheat him from the very beginning. The respondent No.1 is a highly respected doctor endocrinologist and consults at various prestigious hospitals. The petitioner is also a doctor by profession but despite this she has neither revealed her illness nor she has tried to explain her condition which did not permit her to consummate the marriage with the respondent No.1. The petitioner and her parents have come on postponing the issue of nuptial ceremony only with an intent to hide the petitioner's complex condition. Hence, he prays for dismissal of the petition.

4. In order to prove her case the petitioner has examined herself as PW.1 and got marked 32 documents as Ex.P.1 to 32. In turn the respondent No.1 examined himself as RW.1 and got marked 36 documents as Ex.R.1 to 36 and in order to corroborate his evidence he also adduce the evidence of RW.2.

5. The following points that arises for my consideration are as under;

- 1. Whether the Petitioner proves that she has been in domestic relationship with the respondent No.1?**
- 2. Whether the Petitioner proves that she was in a shared household along with the respondents and she has been subjected to Domestic Violence and neglected by the respondents?**
- 3. Whether the petitioner is entitled for the reliefs as sought in the petition?**
- 4. What order?**

6. On perusal of materials before this court, my findings on the above points are as follows;

Point No.1 : In the affirmative;

Point No.2 : Partly affirmative;  
Point No.3 : Partly affirmative;  
Point No.4 : As per final order for the  
following;

### **REASONS**

7. **POINT No.1** : In domestic violence case the petitioner has to prove the domestic relationship between the parties, she was residing with the respondents in a shared household, the domestic violence was caused by the respondents upon the petitioner. The respondents neglected the petitioner without any reasonable cause and the respondent No.1 is capable to maintain the petitioner.

8. In this case, the marriage of petitioner and respondent No.1 is not in dispute, but the respondent No.1 contends that there is no domestic relationship between himself and the petitioner as their marriage was not consummated. It is contended by the petitioner that their marriage was consummated and lived together in shared household and the same has been denied by the respondent No.1, but during the cross-examination of PW.1 no suggestion have been put to her as they were not lived

together in a shared household. In order to prove his contention the respondent No.1 adduce the evidence of RW.2 to show that the petitioner has never lived along with him in the apartment where he was living. But, during the cross-examination of RW.2 he has admitted that they will never take signatures of the family members in the visitors book and the same has been admitted by respondent No.1 also and he has also admitted that in the visitor's book the signature of the persons who were entering along with respondent No.1 will also be not taken and thereby the contention of the petitioner that she was living along with respondent No.1 in the Brundavan Apartment has not been disproved and hence the domestic relationship between the petitioner and respondent No.1 has been proved. Accordingly, this court answered point No.1 in the affirmative.

9. **POINT No.2** :- Further, the petitioner has contended that her father had performed her marriage with respondent No.1 in a luxurious and lavish way by satisfying the respondents' family and fulfilling all their needs and demands and apart from that she has also made various allegations against the respondents which are occurred

prior to marriage and they are irrelevant to this case as an incident occurred prior to the marriage does not attract this enactment prior to marriage there would not be an existence of domestic relationship between the parties which is an important ingredient to attract this enactment. As Sec.2(f) defines "domestic relationship as a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage or through a relationship in the nature of marriage, adoption or a family members living together as joint family." Hence, Ex.P.3 to 5(c) and Ex.P.10 to 14 are not considered and cannot be looked into. Apart from that it is also contended that respondent Nos.2 to 5 have also subjected her to domestic violence in various manner such as after the marriage the respondent No.2 had instigated respondent No.1 not to live with petitioner and she always used to misguide respondent No.1 and at the same time she used to abuse her in a filthy language and she always opposed petitioner not to continue her medical course instead she had told her to be like a slave at home and she was not happy with the marital life of petitioner and respondent No.1 and in the same way the respondent No.3 used her car he got damaged and he also



demanded for a new car and apart from that she also contended that the respondent Nos.2 to 5 have taken all the jewellery which were given by her parents to her. But as per the criminal appeal No.141/2020 it is very clear that the proceedings initiated against distant relatives residing in distant places without making any specific allegations are to be quashed. In this case, though she made allegations against respondent Nos.2 to 5 there is no specific allegations as to show she has been subjected to domestic violence and more over as per the address stated in the cause title of petition and evidence it is clear and apparent that the petitioner has never stayed with respondent Nos.2 to 5. Hence, the allegations made against respondent Nos.2 to 5 cannot be considered.

10. Apart from that, it is a specific contention of the petitioner that after their marriage due to some health issues she was admitted to Apollo Hospital and where she has been diagnosed by crohn's disease and the same has been disclosed to respondent No.1 he started behaving very rudely and started updating his health status to respondent No.2 and at the initial stage though he had told her he will take care of the same he never gave her side instead

he started telling that she cannot lead her normal life and she has to lead dependent life and she will become bed ridden and he started demoralizing her and further he also approached the doctors who were treating her to issue a letter that the petitioner can never lead a normal life and she can never conceive and for which the doctors have refused and by that she had mentally depressed she has suffered a lot and she lost all her hopes to live. But, the same has not been disputed by the respondent No.1 and during her cross-examination no suggestions have been put to her with regard to same. The specific contention of the respondent is that prior to marriage itself the petitioner was suffering from the said crohn's disease and without disclosing the same she has married respondent No.1 and before marriage itself whenever he expressed his desire to meet her she used to avoid him and after the marriage also immediately she had not accompanied him and for one or the another reasons their nuptial ceremony was postponed by stating that as there was no auspicious day. He further contends that the petitioner has avoided respondent No.1 only with an intent to hide the medical condition of the petitioner. In order to support his contentions he had summoned medical documents which has been marked

as Ex.R.32 to 36, but he had not examined the persons who had issued the said documents and he had not made any attempts to adduce the evidence of persons who had issued the medical documents concerned to petitioner. Learned counsel for petitioner while addressing his arguments much relied upon reported decision 2011(4) Crimes 661(ORI) and submitted mere production of document and marking the same as exhibits does not prove the contents of the document without adducing the evidence of the person who issued documents. When such being the case it cannot be relied upon the medical documents which has been produced by the respondent No.1. It is to be noted here that the respondent No.1 had filed petition before Family Court in MC No.1607/2013 for annulment of marriage and the petitioner had also filed a petition in MC No.4150/2013 for restitution of conjugal rights. Here the major contention of the respondent No.1 is that the petitioner and her family members have not disclosed the anything about the disease of petitioner though it was there prior to marriage. In order to cheat the respondent No.1 and his family petitioner got married to him. If at all his major contention was only the disease of the petitioner he could have approached the legal remedies which are available to him. Instead of that, being

husband harassing wife mentally in order demoralize her is an emotional abuse towards petitioner and there was no need for him to approach the doctors who were treating the petitioner to issue false certificates. It shows the intention of the respondent No.1 to demoralise the petitioner. Further it is to be noted Ex.R.17 to 20 are the audio recordings which was recorded by the respondent No.1 and it contains the conversation between him and petitioner and him and doctor. Here there arise a question that what was the need for him to record those conversations and it shows the behavior and attitude of the respondent No.1. It is also contended by the petitioner that after filing the petition before Family Court the respondent No.1 started to contact all her relatives and friends in order to spread the information about her disease and to defame her and her family and the same has not been disproved by the respondent No.1. There was no need for respondent No.1 to approach the wrong way to un-nullify their marriage which has caused mental agony to the petitioner. According to Sec.3(d)(iii) and 4 of PWDV Act the emotional and economic abuse are also a domestic violence and here the petitioner has proved that she has been subjected to emotional and economic abuse. Accordingly, this court answered Point No.2 partly affirmative.

11. **POINT No.3** :- The petitioner has claiming protection order under Sec.18, residential order under Sec.19, monetary relief under Sec.20 and compensation order under Sec.22 of PWDV Act.

12. The petitioner has sought for protection order. As per the address mentioned in the cause title both the parties are residing separately. It is not the case of the petitioner that the respondent No.1 inflicting the Domestic Violence on the petitioner at her residence or at her working place. When such being the case this court deems it inappropriate to grant any protection order.

13. The petitioner has sought for residence order under Sec.19 of PWDV Act. On perusal of exhibit 'P' series it is noticed that the petitioner has not produced any documents to establish that the shared household where both of them resided together belongs to the respondent. Hence, as per the judgment of Hon'ble Supreme Court of India reported in **2007(3) SCC 169** between **S.R.Batra and another Vs. Tarun Batra** where in it is held that:

*“section 2(s) and 17-‘Shared house hold’-  
Wife’s right to reside therein-House which  
exclusively belonged to mother-in-law of*

*the woman where she only lived with her husband for some time on the past after the marriage-Held- not a 'Shared house hold' within the meaning of section 2(s) and respondent is entitled to claim right to live therein under section 17-In order to claim such a right the property should belong to her husband or it should have been taken on rent by her husband or it should have been joint family property in which her husband was a member."*

The Hon'ble Supreme Court of India has held that unless the petitioner establishes right of respondent in the shared household she cannot seek for residence order. Further the petitioner has not produced any documents to establish the fact that the respondent is capable of arranging a separate accommodation to the petitioner so as to issue such direction. In the absence of the required evidence such relief cannot be granted. Hence the relief for residential order is liable to be declined.

14. The petitioner has sought for monetary relief of Rs.8,00,00,000/- as compensation and Rs.1,00,000/- p.m. to the petitioner towards her monthly maintenance. Further it is apparent that the aggrieved is depending upon her parents and she is not financially capable to lead her life

and it is also stated by the aggrieved that the respondent No.1 is a doctor and he is working in number of Hospitals and having number of consultations and he is having sufficient source of income. But, she has not produced any documents to show his financial capacity. However, during his cross-examination he has admitted that he is working in number of Hospitals and he also owns a Hospital and there it is clear and apparent that he is financially capable to maintain his wife. Hence, the petitioner is entitled for maintenance of Rs.20,000/- p.m. Further, by the act of respondent it is apparent that the petitioner has suffered mental agony and which cannot be described in work. Hence, the petitioner is entitled for compensation of Rs.5,00,000/-. As per the judgment of Hon'ble Supreme Court of India in **Savitaben Somabhai Bhatiya V/s State of Gujarat reported in AIR 2005 SC 1809**. It is held that it is fundamental and natural duty of the husband to maintain his wife. Moreover, the respondent has failed to disprove the allegations made by the petitioner and the allegations made by the petitioners are remained unchallenged. When such being the case this court finds it just and proper to award maintenance of Rs.20,000/- p.m. and compensation of

Rs.5,00,000/- to the petitioner. Hence, I answer Point No.3 partly in the affirmative.

15. **POINT No.4** :- In view of the materials placed before this court, pleadings, deposition and documentary evidence this court proceeds to pass the following:

**O R D E R**

**The petition filed by the petitioner under Sec.12 of The Protection of Women from Domestic Violence Act, 2005 is allowed in part.**

**The respondent is directed to pay an amount of Rs.20,000/-p.m. (Rupees twenty thousand only) to the petitioner towards maintenance from the date of petition till her life time or till she gets re-married whichever is earlier.**

**The respondent is further directed to pay an amount of Rs.5,00,000/- (Rupees five lakhs only) as compensation to the petitioner.**



**Office is directed to furnish a copy of  
this order free of cost to the petitioner.**

*(Dictated to the Stenographer, transcript computerized by her, revised corrected and then pronounced by me in the open Court on this the 16<sup>th</sup> day of June, 2020)*

**(VISMITHA MOORTHY)  
MMTC-III, BENGALURU.**

**ANNEXURE**

**WITNESSES EXAMINED FOR THE PETITIONER:**

PW.1                      Arpitha.K.S.

**DOCUMENTS EXHIBITED FOR THE PETITIONER:**

Ex.P.1	Marriage invitation card
Ex.P.2	DIR
Ex.P.3	On demand pronote
Ex.P.4	Receipts
Ex.P.5 & 13	Cloth purchased receipts
Ex.P.6	Medical documents
Ex.P.7	Bank challans
Ex.P.8	Application for PG
Ex.P.9	Car receipts
Ex.P.10	Marriage catering receipts
Ex.P.11	Gold purchased receipts
Ex.P.12	Watch purchased receipt
Ex.P.14	Grocery purchased receipt
Ex.P.15	Apex Bank statement
Ex.P.16	RTI application
Ex.P.17	Reply from secretary
Ex.P.18	CC of petition in MC No.1607/2013
Ex.P.19, 24	Medical documents

Ex.P.20	CC of complaint
Ex.P.21	CC of statement of witnesses
Ex.P.22	Pavithra Paradise receipt
Ex.P.23	CC of complaints
Ex.P.26	Car purchased receipt
Ex.P.27 to 32	photo

**WITNESSES EXAMINED FOR THE RESPONDENT :**

RW.1	Dr. Praveen
RW.2	Venkatesh Kumar

**DOCUMENTS EXHIBITED FOR THE RESPONDENT :**

Ex.R.1	CC of complaint
Ex.R.2	CC of FIR
Ex.R.3	Affidavit in MC No.1607/2013
Ex.R.4	KSRTC Bus booking letter
Ex.R.5	Letter by tax department
Ex.R.6	HP Gas book
Ex.R.7	BSNL letter
Ex.R.8	RTI Letter
Ex.R.9	Reply to RTI
Ex.R.10	Photo of SMS
Ex.R.11	e-mails
Ex.R.12	Medical seat allotted letter
Ex.R.13	Letter of Colombia Asia Hospital
Ex.R.14	Endorsement
Ex.R.15	RTI information letter from KEA
Ex.R.16	RTI information letter from BBPM
Ex.R.17 to 21	CDs
Ex.R.22 & 23	RTI letters
Ex.R.24 to 36	Medical documents

**MMTC-III, BENGALURU.**

