

**IN THE COURT OF THE CIVIL JUDGE AND JMFC
BAGEPALLI.**

PRESENT

**Sri. PRAVEEN R.J.S
CIVIL JUDGE & JMFC, BAGEPALLI**

DATED THIS THE 20TH DAY OF AUGUST 2018

D.V.C.No.18/2017

Complainant/
s : 1. Smt. Nageena
W/o V. Mohammed Pasha
Aged about 27 years,
House wife,
Residing at 19th ward,
Opposite to Jamia Masjid,
Bagepalli town,
Bagepalli taluk,
Chickballapur district.

[Represented by A.G. Sudakar
advocate]

-vs-

Respondent/s : 1. Sri V. Mohammed Pasha
S/o Wajid Saheb
Aged about 28 years,
Territory Manager,
CIPLA, Bangalore
Now residing at
Chowdareddypalya
Near Kalyani Rice Mill, 1st cross
Chintamani Town, Chikkaballapur
District

2. Smt. Tajunnissa
W/o Wajid Saheb,
Aged about 46 years,
residing at Chowdareddypalya
Near Kalyani Rice Mill, 1st cross,
Chintamani Town, Chikkaballapur

District

3. Smt. Ayisha
W/o Sri. Ashwaq,
Aged about 33 years,
residing at Chowdareddypalya
Near Kalyani Rice Mill, 1st cross,
Chintamani Town, Chikkaballapur
District
4. Smt. Reshma
W/o Iliyaz Pasha,
Aged about 30 years
residing at Chowdareddypalya
Near Kalyani Rice Mill, 1st cross,
Chintamani Town, Chikkaballapur
District
- 5 Smt. Gohar Tabassum
D/o Wajid Sab
Aged about 22 years
residing at Chowdareddypalya
Near Kalyani Rice Mill, 1st cross,
Chintamani Town, Chikkaballapur
District
- 6 Sri Babu
S/o Sri Nazir sab
Aged about 38 years,
R/at Chowdareddy Palya,
Nera Kalayani Rise Mill,
1st Cross, chintamani town,
Chikkaballapur district.
Respondent No. 6 working
as two wheeler mechanic,
Kolar main raod,
Opp. Madina Masjid.

[Represented by Sri. G.M
Ibrahim advocate for R-1 & 6;]

**O R D E R ON APPLICATION FILED UNDER SECTION
23(2) OF THE PROTECTION OF WOMEN FROM
DOMESTIC VIOLENCE ACT**

The present application has been filed by the complainant seeking interim maintenance of Rs.15,000/- per month till disposal of the petition and also to restrain the respondents from giving any domestic violence to the complainant.

2. In support of the application, the complainant has filed an affidavit contending that she is the legally wedded wife of the 1st respondent and that their marriage was solemnized on 16th June 2013 at Bagepalli as per the Muslim rites in their community; that the respondents family and the complainant family are relatives and as such the complainant's father had given Rs.10,00,000/- to the respondents' family as a dowry and that at the time of marriage the complainant's parents had also given gold ornaments to the 1st respondent i.e. 4 gold rings weighing 50 grams, two gold neck chains weighing 60 grams, gold

bracelet weighing 30 grams, two wrist watches, Indica Car bearing registration Number KA 05-MC 442, and gold neck chain weighing 50 grams to her mother-in-law; that further her parents have given one gold necklace, one long chain, 2 pairs of gold ear studs, 4 gold bangles to her along with Refrigerator, Washing Machine, UPS and other valuable equipments, utensils, Sarees, etc., worth of 15 lakhs; that her parents inant have paid 1,50,000/- to the respondent for the construction of his house. And have incurred Rs. 40,00,000/- as marriage expenses.

3. It is further contended that after the marriage with the first respondent she resided happily only for a period of 5 months and that the herself and the respondent 1 had one child which died due to respiratory problems; that she was working as a private school teacher at Chintamani and that the Respondents forced her to queit her job; that even during the pregnancy she was not taken proper care of by the 1st respondent and that he was intentionally avoiding her and that he did not fulfill her daily needs and that she stayed with the 1st respondent only because of her parents

advise; that she has been ill treated physically and psychologically ; that despite several panchayaths have not yielded any fruit; that the respondents have not heeded to the advise of the Bagepalli Santwana Kendra; that her parents are financially unstable and struggling with lot of problems and that it is impossible for her parents to maintain her any longer and that she has no independent source of income for her maintenance and that she is unable to maintain herself and that she requires a sum of Rs. 15,000/- per month for her maintenance and other legal necessities and that the 1st respondent is working as a Territory Manager, Cipla, Bangalore and is also having immovable properties and other business; and that the 1st respondent is having sufficient means of income from and he is earning Rs. 2,00,000/- and above per month.

3. Though the respondent 1 has filed objections to the application and contended that the Respondents 3 to 6 have been unnecessarily implicated as respondents in this petition giving their address falsely , as they are the residents of Chintamani town; that the marriage of

respondent No. 3 was held about 14 years ago, and the marriage of respondent No. 4 was held about 6 years ago and respondent No. 5 was married about 2 years ago and since the date of their respective marriages they are residing in their marital houses with their husband at different places and they are not residing with respondent No.1; it is further submitted that, the petitioner has also lodged a complaint against them before the town Police, Bagepalli for Dowry Harassment and the Police Authorities have registered the criminal case against them along with the respondent No. 1, 2 and 6 under various sections of IPC and Dowry Prohibition Act and that after investigation the Bagepalli town Police have filed a Charge Sheet before this Hon'ble Court only against respondent No. 1, 2 and 6 which is registered as CC. 230/2017; that the complainant was never interested in leading the marital obligations and that even when she resided with the respondent 1 she never respected his parents despite him trying to convince her otherwise; that she insisted that he give his consent for a mutual divorce and would abused him in an offending

language for no fault of his ; that even when he used to visit her at her parents' house they would ill treat him and insult him and refused to send her to the marital house; that several panchayaths were held in the masjid the advise of which was not heeded to by the complainant and used to threaten him that she would commit suicide implicating him and his family members; that as per the NGO advice in Chintamani she had undertaken to lead a happy married life without giving room for further litigation. It is further averred that she went away to her house in Bagepalli along with her father taking all the jewels, clothes and household belongings; that unable to bear with the attitude of the complainant he has filed a suit in OS 148 of 2017 before the Hon'ble Senior Civil Judge Chintamani for dissolution of marriage and that since the complainant has not joined the Respondent 1 as per the provisions of the Mohammadan law she has no right to call herself as his wife nor claim maintenance. The respondent 1 has contended that he has lost his job from CIPLA company and that he is working as a coolie to meet his day to day necessities; that the

complainant is herself working as a teacher in a private school and as such there is no need to pay maintenance to her.

4. I have heard the learned counsel for both the parties.

5. The point that would arise for my consideration are as under:

- 1) Whether the application filed by the complainant required to be allowed?

6. My answers to the above point is **partly in the Affirmative** for the following:-

REASONS

7. Point No.1- The present application has been filed by the Petitioner under Section 23 of Protection of women from domestic violence Act, 2005 to restrain the respondents from inflicting any domestic violence upon the Petitioner and to direct the first Respondent to pay interim maintenance at the rate of Rs.15,000/- per month. Though several allegations and counter allegations have been made as either of the parties not co-operating with the other for marital life and the respondent 1 alleging that the

complainant has filed a false complaint against himself and his family members and caused severe embarrassment to his family members, it is to be borne in mind that the tenability of a criminal complaint is not a matter that is within the ambit of this court in this petition. The said complaint will be taken to its logical conclusion in the appropriate proceedings and should in no way come in the way of this court deciding the present application for maintenance. Further even the proceedings for dissolution of marriage pending before the Hon'ble Senior civil Judge is also not a fetter for this court to decide this application since what the Hon'ble Court in that petition would be adjudicating is whether dissolution should be ordered in the present case or otherwise. What this court would be adjudicating is whether the complainant is a victim of domestic violence or otherwise. The scope of this proceeding cannot be mixed up with the scope of the other pending proceedings between the parties.

Having regard to the nature of allegations and counter allegations made, the first aspect that is to be seen

is that the provisions of Protection of women from domestic violence Act, 2005 was enacted with a view to prevent vagrancy and to see that the women who complains of domestic violence is not turned out as a destitute till adjudication of the same. Having regard to the object with which the act was enacted, if we were to advert to the facts of the present case, the relationship between the parties is admittedly not in dispute. Till such time as both parties adduce their evidence and prove the respective contentions, the court is duty bound to see that the Petitioner is able to take care of herself. Though there is no material placed by the Petitioner at this stage to show that the Respondent No.1 is earning Rs.200,000/- per month and also having regard to the contentions of the respondent 1 that he is a daily wage laborer and having regard to the standard of living and the general monthly expenses that an average lady requires for leading a normal life this court feels it appropriate to Award interim maintenance to an extent of Rs.3,000/- per month towards her interim

maintenance. Accordingly, I answer point No.1 and 2 partly in the Affirmative.

10. **POINT No.3:-** In view of my findings on Points No. 1 and 2, I proceed to pass the following:-

ORDER

The application filed by the petitioners under Section 23 (2) of Protection of women from domestic violence Act, 2005 is partly allowed.

The Respondent No.1 is directed to pay interim maintenance of Rs.3,000/- per month to the petitioners from the date of application till disposal of the main petition.

He is further restrained from inflicting any further domestic violence upon the Petitioners.

Office to communicate the copy of this order to the Protection Officer.

(Dictated to Stenographer directly on the computer, computerized by him, corrected by me, signed and then pronounced in open court on the 20th day of August 2018).

(PRAVEEN.R.J.S)
CIVIL JUDGE & J.M.F.C,
BAGEPALLI.

ORDER

The application filed by the petitioners under Section 23 (2) of Protection of women from domestic violence Act, 2005 is partly allowed.

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(PRAVEEN.R.J.S)
CIVIL JUDGE & J.M.F.C,
BAGEPALLI.