



IN THE COURT OF THE PRL. CIVIL JUDGE & JMFC.,
MUDIGERE

PRESENT: Sri. Sachin.D. B.A.,LL.B.,
Prl. Civil Judge & JMFC.,
Mudigere.

DATED THIS THE 27th DAY OF SEPTEMBER 2022

CRL. MISC. No. 142/2019

BETWEEN :

1. J.S.Sharadha @ Sharavi,
W/o Punith Kumar,
Aged about 31 years.
2. Master Vrushabh Gowda,
S/o Punith Kumar,
Aged about 2 years.

Both are R/o: Jannapura Village,
Gonibeedu Hobli, Mudigere Taluk,
Chikkamagaluru.

...Petitioners

(By Sri.Sandeep.K Adv.,)

V/s

AND :

Punith Kumar S/o Rangegowda,
Aged about 35 years,
R/o: # 77, B.H Road, Galigundi,
Aldur Hobli, Chikkamagaluru Taluk,
Chikkamagaluru

...Respondent

(By Sri.B.A.Suresh Adv.,)



ORDERS ON MAIN PETITION

The petitioners have filed the present petition under section 12 of Protection of Womens From Domestic Violence Act, 2005, seeking various reliefs under sections 19, 20 and 22 of the said Act against the respondent.

2. The brief facts of the petition as follows:

The petitioner No.1 and the respondent are the legally wedded husband and wife and their marriage was solemnized on 07.06.2015 at Adi Subramanya Temple, G.Agrahara, Gonibeedu, Mudigere Taluk, as per the customs and tradition prevailing in their community. During the marriage, as per the demand of the respondent and his parents, the parents of the petitioner No.1 gave 15 grams gold chain, 5 grams gold ring and cash of ₹50,000/- and performed marriage by spending more than ₹5,00,000/-. Out of the marriage of the petitioner No.1 and respondent, the petitioner No.2 was born. It is further stated that after the two months of the marriage, the respondent, his parents and his sister have started to give mental and physical harassment to the petitioner No.1 by demanding to bring more money. Further they have abused in filthy language and threatened as go away from the life of the respondent if she not bring gold and money. However, the petitioner No.1 has tolerated all those cruelties. It is further



stated that now the petitioners are residing at the house of the petitioner No'1's brother and the respondent has not provided any maintenance to them. It is further stated that the respondent is not paying anything for education of his child and the dutiful brother of the petitioner is maintaining the expenses. The respondent is doing real estate business and also agriculturist. Out of the same, he has earning salary of ₹40,000/- per month. Therefore, the petitioners are required at least a sum of ₹20,000/- per month for their livelihood. Hence, prayed for allow the petition and grant the relief as sought in the petition.

3. In response to the notice, the respondent has appeared through his counsel and inspite of opportunities, he has not filed any objection to the main petition.

4. In view of the above contentions of the petitioner, the following points are arise for consideration.

- 1) Whether the respondent has committed the Domestic Violence against the petitioners as stated in the petition?**
- 2) Whether the petitioners are entitled for the reliefs as sought in the petition?**



3) What order?

5. In order to prove the petitioners case, the petitioner No.1 herself examined as PW1 and got marked documents at Ex.P1 and 2 and closed her side. In spite of opportunities, the respondent neither stepped into the witness box to adduce evidence on his behalf nor cross-examined the PW1.

6. Having heard arguments of the both side, the court perused the petition, oral and documentary evidence supplied by the petitioner. Now, findings of the court to the above points are as follows :

Point No.1: ***In the Affirmative***

Point No.2: ***In the Partly Affirmative***

Point No.3: As per final order

for the following:

REASONS

7. Point No.1 & 2: As these two points are inter-connected each other and requires common discussion, as such they have taken together for discussion.

It is the case of the petitioners that the petitioner No.1 is the legally wedded wife of the respondent and their marriage was solemnized on 07.06.2015 at Adi Subramanya Temple, G.Agrahara, Gonibeedu as per the customs and



tradition prevailing in their community. Out of their wedlock, the petitioner No.2 was born and during the marriage, the parents of the petitioners have gave 20 grams gold and ₹50,000/- cash to the respondent and performed the marriage by spending ₹5,00,000/-. Whereas, after the marriage, the respondent, his parents and sisters have committed Domestic Violence as against the petitioner No.1 by giving mental and physical cruelty by demanding bring dowry from her parental house. As such, now the petitioners are residing in the house of the petitioner No.1's brother and the respondent being the dutiful husband and father has failed to make any arrangements towards the maintenance of the petitioners. The respondent is earning more than ₹40,000/- per month by doing real estate business and agriculture. Therefore, he is liable to pay the maintenance to the petitioners. Accordingly, they knocked door of this court by filing the present petition.

8. In order to substantiate the petitioners case, the petitioner No.1 herself examined as PW1 by filing her examination-in-chief affidavit. Wherein she has reiterated the petition averments once again. Therefore, it is needless to say, because it is anything to repetition of facts. PW1 also adduced evidence and got marked documents at Ex.P1 and 2. Ex.P1 is the marriage invitation card and Ex.P2 is the RTC extract. It is very pertinent to note that herein this



case, though the respondent has appeared through his counsel not opted to file his objection to the main petition. Further, he neither cross-examine PW1 nor chosen to lead evidence on his behalf. Therefore, the evidence of PW1 and documents at Ex.P1 and 2 are remains unchallenged on record. However, the petitioner No.1 has to establish her case as she pleaded.

9. It is the contention of the petitioners that they are the wife and son of the respondent. In order to prove the relationship as pleaded in the petition, the petitioners have relied upon the documents at Ex.P1, which is the marriage invitation card, which goes to show that on 07.06.2015, the marriage of the petitioner No.1 and respondent was performed at Sri.Adi Subramanya Temple, G.Agrahara, Gonibeedu. Therefore, the petitioners have clearly established that the marriage of the petitioner No.1 and respondent was performed on 07.06.2015. Further, it is very pertinent to note that even though, the respondent has appeared through his counsel before this court has not filed his objection statement. If at all, the petitioners are not the illegally wedded wife and son of the respondent, definitely he would have been file his objection statement and by disputing the relationship between him and petitioners. Hence, in the absence of objection statement, this court can



drawn adverse inference against the respondent that the case of the petitioners is true and correct. Therefore, by considering the unrebutted oral evidence of PW1 and documents at Ex.P1, the petitioners clearly established that the respondent is the legally wedded husband of the petitioner No.1 and father of the petitioner No.2.

10. The petitioners have contended that the respondent, his parents and his sisters have gave mental and physical cruelty to the petitioner No.1 after the marriage. However, in order to show that no document produced before this court. As already observed above, the respondent has not filed any objection statement. Hence, the unchallenged sworn statement of PW1 is sufficient to say that the respondent and his family members has committed the Domestic Violence as pleaded in the petition. Therefore, the petitioners are established that the respondent has committed the Domestic Violence against them and not provided any maintenance to them for their livelihood.

11. It is the contention of the petitioners that the respondent is having income more than ₹40,000/- per month. To substantiate the said contention, the petitioners have relied upon the document at Ex.P2, which is the RTC extract of property bearing Sy.No.172/P1 of



Chikkamagaravalli Village. It goes to show that 3 acres of land is jointly standing in the name of H.T.Range Gowda, H.T.Eregowda and H.T.Uddegowda. Thus, the said property is not standing in the name of the respondent. Therefore, it is not helps to the petitioners so as to prove that the respondent is having income as pleaded in the petition. Apart from the said document, nothing produced by the petitioners except the oral evidence to prove the exact income of the respondent. Therefore, the oral evidence is not suffice to say that the respondent is having income as pleaded by the petitioners in their petition. However, the respondent being legally wedded husband of the petitioner No.1 and father of the petitioner No.2, has to maintain them equal to his status. Nowadays to get the basic necessities i.e., food, cloth and medicine at least a sum of Rs.2,000/- per month is required for the petitioner No.1. Further, since the petitioner No.2 is the minor and he is about 4 years and he has to join the school. Therefore, he required Rs.3,000/- per month as a maintenance. Hence, the respondent being a dutiful husband and father of the petitioners, he has to give such amount to the petitioners for their livelihood.

12. The petitioners further contended that now they are residing at the house of the petitioner No.1's brother, but respondent has not made any arrangements for their accommodation. Admittedly, the respondent has not



challenged the entire case of the petitioner, which remains unchallenged. Therefore, the contention of the petitioners can be believable as true and correct by considering the unchallenged oral evidence of PW1. Therefore, the respondent is liable to make the arrangements to the petitioners for their separate accommodation. Further, the petitioners have claimed compensation amount of Rs.1,00,000/- for Domestic Violence, which committed by the respondent. But in order to show that the petitioner No.1 has gone into mental agony and she has got treated, nothing documents is produced before this court. Therefore, in the absence of documents, gravity of the Domestic Violence, which allegedly committed by the respondent can't be say that it is grievous in nature. Hence, the compensation which claimed by the petitioners under section 22 of Domestic Violence Act is not supported any cogent and acceptable evidence. Therefore, the petitioners are not entitled for the such relief. Accordingly, this court answer point No.1 **in the Affirmative** and point No.2 in the **Partly Affirmative**

13. Point No.3 : In view above answers on point No.1 and 2 and discussions made supra, this court proceed to pass the following order.



ORDER

The petition filed by the petitioners under section 12 of Protection of Womens From Domestic Violence Act, is hereby allowed in part as follows;

1. The respondent is hereby directed to make separate residential accommodation to the petitioners within 1 month from the date of this order.

2. The respondent and his family members are hereby restrained from committing any kind of Domestic Violence Act against the petitioners in any manner in future.

3. The respondent is hereby directed to pay monthly maintenance allowance of ₹2,000/- to the petitioner No.1 for her lifetime and ₹3,000/- per month to the petitioner No.2 till he attains majority from the date of this order.

4. The claim of the petitioners with respect to compensation under section 22 of



***the Protection of Womens From Domestic
Violence Act, is hereby rejected.***

(Dictated to the Stenographer, transcribed by him, corrected and then pronounced by me in the open court on this the 27th day of SEPTEMBER 2022, at Mudigere)

Sd/-
(Sri.Sachin.D)
Prl. Civil Judge & JMFC.,
Mudigere.

ANNEXURE

LIST OF WITNESSES EXAMINED ON BEHALF OF THE PETITIONERS:-

PW.1 : J.S.Sharadha @ Sharavi W/o Punith Kumar

LIST OF DOCUMENTS MARKED ON BEHALF OF THE PETITIONERS:-

Ex.P1 : Marriage Invitation Card

Ex.P2 : RTC Extract

LIST OF WITNESSES EXAMINED ON BEHALF OF THE RESPONDENT:-

- Nil -

LIST OF DOCUMENTS MARKED ON BEHALF OF THE RESPONDENT:-

- Nil -

Sd/-
(Sri.Sachin.D)
Prl. Civil Judge & JMFC.,
Mudigere.

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