

KADG320008872023



**IN THE COURT OF THE I ADDL. CIVIL JUDGE &
J.M.F.C. HARIHAR**

:: PRESENT::

Sri. SHRINIVAS PATIL. B.A. LL.B. LL.M

I Addl. Civil Judge & JMFC, Harihar.

Dated this the 13th day of July, 2026

Crl.Misc.174/2023

PETITIONER:

Smt. Tarannum

W/o Haseeb,

D/o. M.N. Mattihalli,

Aged about 37 years,

R/at 1st Main, 1st Cross, Harlapura,

Harihar-577601,

Davanagere District.

(R/by **Sri.B.M.S.**– Advocate)

- V/s -

RESPONDENTS: 1)

Sri. Abdul Haseeb,

S/o Shahid Ali,

2) Asif S/o. Shahid Ali

3) Smt. Khatun

W/o. Shahid Ali,

Respondent Nos.1 to 3 are
r/at #52, Near Purva Madhyamika
Vidyalaya, Budharia, Kakori Town,
Lucknow District,
Uttar Pradesh state.

(R1 to 3- Absent)

ORDERS ON MAIN PETITION

This petition is filed by the petitioner U/Sec.12 of Protection of Women from Domestic Violence Act, 2005, seeking protection of order against the respondents and also seeking custody of her minor child.

2. The case of the petitioner is as follows :

The petitioner's marriage with respondent No.1 was solemnized on 11.09.2020 at Houda Mosque, Budhadia, Kakori, Uttar Pradesh as per Islamic rites and customs. Respondent No.2 is the brother of respondent No.1 and respondent No.3 is the mother of respondent No.1. After marriage, the petitioner and respondent No.1 lived together as husband and wife. After marriage, the respondents subjected her to domestic violence. Respondent No.1 did

not provide proper maintenance and house hold expenses and used to abuse and assault her. The petitioner has further stated that in February 2021, respondent No.1 brought her to Harihar for livelihood. Thereafter, the father of petitioner helped respondent No.1 to start cloth business. On 11.09.2021, the petitioner gave birth to male child at Shreya Hospital, Harihara and child was named Umar. After the birth of child, respondent No.1 continued to abuse and assault the petitioner and forced her to go for work. Thereafter, the petitioner joined Iqra academy, an Islamic school, Harihar as a teacher and started earning. In October 2022, respondent No.1 brought respondent No.2 from Uttarpradesh to Harihara. Thereafter, respondents continued to abuse, assault and harass the petitioner. On 02.01.2023 respondent No.1 abused the petitioner in filthy language and assaulted her. On 27.01.2023, when she had gone to work and when her father had gone to Mosque for prayer, the respondents took away the minor child from Harihara without her consent. When she and her father searched for child they could not

find him. Thereafter, she approached the Harihar Town Police station and also gave complaint. The respondent took the child to Uttarpradesh and thereafter did not allow the petitioner to see or speak to the child. The petitioner has also alleged that respondent No.1 went abroad and threatened her over phone that unless she signed mutual divorce papers, the child would not be returned to her. Due to separation from the minor child, she suffered several mental agony. Hence, prayed to allow the petition.

3. After Issuance of notice to the respondents, they did not mark their appearance before the court and thereafter, the respondents were placed Exparte.

4. In order to prove the case of the petitioner, she was examined before the court as PW.1 and got marked Ex.P.1 to Ex.P.21.

5. On the basis of above pleadings, evidence, the following points arise for my consideration.

- 1. Whether the petitioner proves that she was in domestic relationship with respondent No.1 and she was subjected to domestic violence by the respondents ?**
- 2. Whether the petitioner is entitled for protection order against the respondents ?**

3. Whether the petitioner is entitled for the custody of minor child ?

4. What order?

6. My answer to the aforementioned points are as under:

Point No.1 : In the **Affirmative**
Point No.2 : In the **Affirmative**
Point No.3 : In the **Affirmative**
Point No.4 : As per the final Order
for the following;

REASONS

7. Point No.1: The petitioner to substantiate her claim, has examined before the court as PW.1 and filed her affidavit in lieu of her examination-in-chief. In her affidavit she has reiterated the petition avernments. Further, to substantiate her claim, she has got marked Ex.P.1 to Ex.P.21. Ex.P.1 and 2 are the photos of the petitioner and respondent, Ex.P.3 is the Birth certificate of son of PW.1, Ex.P.4 to 11 are the Medical documents of petitioner, Ex.P.12 to 15 are the photos of PW.1's son and respondent No.3, Ex.P.16 & 17 are the Certified copies of complaint, Ex.P.18 is the Service certificate of petitioner, Ex.P.19 is the CD, Ex.P.20 is the Pendrive, Ex.P.21 is the Certificate U/Sec.65(B).

8. The petitioner has stated that her marriage with respondent No.1 was solemnized on 11.09.2020 as per Muslim rites and customs. She has also stated that respondent No.2 is the brother of respondent No.1 and respondent No.3 is the mother of respondent No.1. The petitioner has produced Ex.P.1 and Ex.P.2 photographs to show the relationship with respondent No.1.

9. Further, Ex.P.3 is the birth certificate of minor child Umar. These documents show that Umar is the child born to the petitioner and respondent No.1. Therefore, the oral evidence of PW.1 and the documents produced by her show that the petitioner is the wife of respondent No.1 and they lived together in a domestic relationship.

10. The petitioner has specifically stated that after marriage, respondent No.1 subjected her to cruelty and domestic violence. She has also stated that respondent No.1 failed to provide proper maintenance and house hold expenses. Respondent No.1 used to abuse and assault her. She has also stated that respondent No. 2 and 3 also harassed her.

11. The petitioner has specifically stated that on 12.01.2023 and 17.01.2023 specific incidents took place. She was abused in filthy language and physically assaulted. On 27.01.2023, when she had gone to work the respondents took away her minor child Umar without her consent and thereafter, did not allow her to see or speak to the child.

12. Ex.P.16 and P.17 are the complaints given by the petitioner to the S.P Davanagere and PSI Harihara Town Police Station. Ex.P.18 shows that she was working in Iqura Academy from 15.11.2021 till 27.01.2023 and was earning Rs.20,000/-per month. These documents also support her case that she was working at Harihar during that relevant period.

13. The Act of abusing, assaulting, failing to maintain amount to physical, verbal, emotional and economic abuse within the meaning of domestic violence under the DV Act.

14. The respondents have not challenged the evidence of PW.1. They have also not placed any materials before the court to disbelieve the case of the petitioner. Therefore, the

evidence of PW.1 has to be accepted. Accordingly, I answer

Point No.1 in the Affirmative.

15. Point No.2: The petitioner has sought protection order against the respondents. As already discussed, the petitioner has proved that she was subjected to domestic violence. Her evidence shows that she was abused, assaulted and harassed. The respondents have not appeared before the court. When the acts of domestic violence are proved, the court can give protection order. Therefore, the petitioner is entitled for an order restraining the respondents from committing further act of domestic violence against her and her minor child. Accordingly, I answer **Point No.2 in the Affirmative.**

16. Point No.3: The petitioner has also sought for custody of her minor child Umar. Ex.P.3 is the birth certificate shows that Umar is the son of petitioner and respondent No.1. The evidence of PW.1 shows that child was taken away from her custody on 27.01.2023 without her consent. She has further stated that thereafter, she was not allowed to see or speak to the child.

17. During the pendency of the proceedings, an interim order regarding custody of the minor child was already passed on 24.06.2023. On 12.05.2025, the interim custody of the child was extended till further orders. Thereafter also, the respondents have remained absent and have not contested the case. They have not placed any materials to say that the custody of the child with the petitioner is not proper. The minor child was born on 11.09.2021. At this age, the welfare of the child is paramount consideration. The petitioner is the mother of the child. There is no material to show that she is not capable of taking care of the child. Therefore this court holds that the petitioner is entitled for the custody of the minor child Umar. Accordingly, I answer **Point No.3 in the Affirmative.**

18. Point No.4: For the reasons discussed above, I proceed to pass the following :-

ORDER

**The Petition filed by the petitioner
U/Sec.12 of Protection of Women from
Domestic Violence Act, 2005 is hereby
allowed.**

The respondents are hereby

restrained from committing any act of Domestic Violence against the petitioner and her minor child Umar.

The interim custody order relating to minor child dated 24.06.2023, which was extended on 12.05.2025 till further orders is hereby made absolute.

The custody of the minor child Umar shall continue with the petitioner.

Office is hereby directed to furnish free copy of this order to the petitioner and respondents as required U/Sec.24 of Protection of Women from Domestic Violence Act, 2005.

Office is further directed to send a copy of this order to SHO, Harihar Town Police Station, for information and necessary action in accordance with law.

No order as to costs.

(Dictated to the Stenographer, transcribed and typed by her, revised, corrected and then pronounced by me in the open Court on this the 13th day of July 2026).

Sd/-
(SHRINIVAS PATIL)
I Addl. Civil Judge & JMFC
Harihar.

ANNEXURE

List of witnesses examined on behalf of the petitioners:

PW-1 : Tarannum

List of documents marked on behalf of the petitioners:

Ex.P1 & 2 : Photos

Ex.P3 : Birth certificate of son of PW.1
Ex.P.4 to 11 : Medical documents
Ex.P.12 to 15: Photos
Ex.P.16 & 17: Certified copy of complaint
Ex.P.18 : Service certificate
Ex.P.19 : CD
Ex.P.20 : Pendrive
Ex.P.21 : Certificate U/Sec.65(B)

List of witnesses examined on behalf of respondents:

- NONE-

List of documents marked on behalf of respondents:

- NIL-

Sd/-
(SHRINIVAS PATIL)
I Addl. Civil Judge & JMFC,
Harihar

