

IN THE COURT OF JUDICIAL MAGISTRATE OF FIRST CLASS, BOBBILI

Present:- P.Nageswara Rao,

Judicial Magistrate of First Class, Bobbili.

Tuesday , this the 14th day of December , 2021

D.V.C.NO. 04 of 2019

Between:-

01. Yegireddi Nagamani,
W/o Satyanarayana,
Age 26 years,
02. Yegireddi Meghana,
D/o Satyanarayana,
Age 6 years,
03. Yegireddi Sampath Naidu,
S/o Satyanarayana,
Age 4 Years,
04. Yegireddi Sandeep Naidu,
S/o Satyanarayana,
Age 4 years,

(Petitioners No.2 to 4 being minors represented by their mother and natural guardian i.e. first Petitioner and they are resident of Door No. 3-11, Subadra Village, Balijipeta Mandal, Vizianagaram District.)

---- Petitioners No.1 to 4.

And :

- 1) Yegireddi Satyanarayana,
S/o Appala Naidu,
Age 32 years ,

2) Yegireddi Appala Naidu,
S/o Pydipunaidu,
Age 68 years,

3) Yegireddi Pydithalli,
W/o Appala Naidu,
Age 62 years,

(Respondents No.1 to 3 are resident of Kalavarai village, Bobbili Mandalam, Vizianagaram District).

---- Respondents No.1 to 3.

This petition is coming before me for final hearing on 08-12-2021 in the presence of K.Prasada Rao and N.Prema Latha, Advocates for the Petitioners and of M.Jagannadha Rao, Advocate for Respondents and having heard and stood over for consideration till this day, this court delivered the following :

ORDER

1. This is a petition filed by the Petitioners under section 12 r/w section 18, 19, 20 and 22 of the Protection of Woman from Domestic Violence Act, 2005 for seeking appropriate reliefs from Respondents No.1 to 3 .

2. The brief facts of the petition are ----

That the 1st petitioner is the legally wedded wife of 1st respondent and their marriage was performed at Venugopala Swamy temple, Bobbili on 24-04-2009. At the time of marriage, the parents of the petitioner no.1 gave Rs. 1,00,000/- towards worth of saresamanulu to the respondents. Immediately after the marriage, the petitioner No.1 joined with the respondent no.1 and lead happy

marital life only for one or two months. Thereafter, the respondents started to harass petitioner No.1. All the respondents used to harass the petitioner No.1 physically and mentally for additional dowry. In the mean while the petitioner No.1 became pregnant and gave birth to the petitioner No.2. After the birth of the petitioner No.2, the respondents again started harassment and also abused her that she gave birth to female children instead of male child and respondent No.1 used to demand to bring money from her parents also, for which the petitioner No.1 expressed her inability to bring additional dowry as her parents are very poor, but the respondents did not heed the words of the petitioner no.1 and beat her regularly.

3. It is further submit that while so, the petitioner No.1 and respondent No.1 went to Vijayawada for their livelihood where the respondent no.1 harassed the petitioner No.1 and beat her brutally and drove her from his residence at Vijayawada. Thereupon, the petitioner no.1 intimated the same to her father and in-turn her father brought the petitioner no.1 to his house at Subadra village. The petitioner no.1 gave report to Balijipeta Police and the police called both the parties and admonished the respondent and also directed them to take back the petitioner no.1 and accordingly the respondents took the petitioners No. 1 and 2 to their house and lived happily for some days. Later the petitioner no.1 and the respondent No.1 shifted their residence to Subadra village, where the parents of the petitioner No.1 are residing. While so, the petitioner no.1 became pregnant and gave birth to twins, who are the petitioners No. 3 and 4. Thereafter all the petitioners and respondent No.1 shifted to Kalavarai vilalge, where the petitioners and all the respondents lived together. Later again the respondents caused domestic violence to the petitioner No.1 by suing physical and mental torture. Later on, one day the respondents driven out all he petitioners from their house with a view to not fulfill their illegal demand of additional dowry. Thereupon the petitioners have no other alternative except to go to the parents house of the petitioner No.1.

4. It is further submit that then the petitioner No.1 raised dispute before the elders, but the respondents did not heed the advise of the elders. Thereafter the petitioner No.1 gave report to the Balijipeta Police for the offence under Section 498-A of The Indian Penal Code, 1860, against the respondents. The petitioner No.1 has no means to maintain herself and petitioners No. 2 to 4. The respondent No.1 is having Ac. 4-00 cents dry land, one RCC slabbed house and one vacant site at Kalavarai village out of cultivation the lands, the respondent No.1 nearly getting Rs. 2,00,000/- per annum. Hence, the petitioners prays the court may be pleased to grant reliefs i.e a) directing the respondent no.1 to pay Rs. 2,000/- towards rent for their residence or to provide separate residence to the petitioners no. 1 to 4, b). to pass an order for monthly maintenance for Rs. 3,000/- each to the petitioners no. 1 to 4, d). to provide an amount of Rs. 20,000/- towards medical expenses to the petitioner no.1 and e). to provide compensation of Rs. 50,000/- towards domestic violence caused by respondents No. 1 to 3 to the petitioner no.1.

5. The respondent nos. 1 to 3 have received notice of this petition and the respondent No.1 filed counter, which was adopted by the respondent no.2 and 3, by denying the allegations of the petition and contended that the respondent No.1 separated long back from the other respondents, the respondent No.1 and petitioners are used to reside separately, the other respondents are nothing to do with dispute in between the petitioner No.1 and respondent No.1, the respondent no.1 and respondent no.2 have partitioned their joint family properties after marriage in between the petitioner no.1 and respondent No.1 due to the petitioner No.1 and since then respondent No.1 and petitioners are living separately. The respondent No.1 never harassed the petitioner No1 for additional dowry and the petitioner No.1 insisted the respondent No.2 to execute the documents in her favour and demanded to give his properties and due to that reason the dispute have been arose. The respondents never committed the domestic violence against the petitioners, the petitioner No.1 created the story of domestic violence for the purpose of the present case.

6. It is further submitted that petitioner No.1 during stay with respondent no.1, she used to quarrel with respondent No.1 without any reasonable or probable cause, the respondent No.1 has got immense love and affection towards his wife and children. The petitioner no.1 used to insisted respondent no.1 to come to her parents house as illatom son-in-law, respondent No.1 went to his -in-laws house and used to stay for some time, the petitioner no.1 and her family members used to treat the respondent no.1 as form servant and they used to harass the respondent no.1 both mentally and physically. Thereafter respondent No.1 raised dispute before the elders who advised the petitioner no.1 to go and lead conjugal life with respondent No.1, she unwillingly came to the house of the respondent No.1, again she started troubles and harassed the respondent No.1 both mentally and physically.

7. It is further submitted that the petitioner No.1 along with other petitioners went to her parents house even without informing respondent no.1, respondent no.1 sincerely made his affords to get back his wife and children but in vain. The respondent No.1 took the elders from his village and raised a dispute before the elders, but the petitioner no.1 bluntly refused to come and lead a conjugal life with respondent No.1 and she did not heed the advice of the elders, there are no bonafides on the part of the petitioner no.1 for filing the present petition. This DVC is not maintainable under law. The children are not entitle to claim maintenance against he respondents under domestic violence Act. The petitioner No.1 voluntarily withdrawn from the society of the respondent No.1 even without reasonable or probable cause. Therefore, she is not entitled to claim any maintenance from the respondent no.1. The respondent no.1 is ready and willing to take back his wife and children to maintain them properly. The respondent No.1 has no properties either movable or immovable properties and he is doing cooli work only. The respondent No.1 has no capacity to pay separate maintenance or separate shelter to the petitioners. The respondent n.1 prays to dismiss the present petition with costs in the interest of justice

8. The petitioner no.1 herself examined as P.W.1 and no documentary evidence adduced on behalf of petitioners. No oral or documentary evidence adduced by the respondents.

9. Heard the arguments of the counsel for the petitioners. No representation by counsel for respondents, hence arguments of respondents side is closed.

10. Now the points that arose for consideration are -----

(A) Whether the Petitioner No.1 is entitled for a relief of accommodation or shared house or Rs. 2,000/- towards rent if alternative residence not provided , from the 1st respondent or not ?

(B) Whether the Petitioners No.1 to 4 are entitled for monthly maintenance of Rs.3,000/- each from the 1st respondent or not ?

(C) Whether the Petitioners No.1 to 4 are entitled for Rs.20,000/- from the respondent no.1 towards medical expenses of the petitioner No.1 or not ?

(D) Whether the Petitioners No.1 to 4 are entitled for compensation of Rs.50,000/- from the respondents no.1 to 3 towards emotional distress, mental tortured caused by the respondents or not ?

11. Point No.A to Point No.D :

As Point No.A to Point No.D are interrelated to each, hence it is necessary to answer all points jointly in-order to avoid repetition of evidence. In support of the case of the petitioners, petitioner no.1 herself examined as P.W.1 and she deposed in her chief affidavit that her marriage with Respondent No.1 was performed at Sri

Venu gopala swamy Temple, Bobbili on 24-04-2012 and her parents gave Rs. 1,00,000/- towards sarlsamanulu to the respondents and then she gave birth to petitioners no.2 to 4, and after that respondents demanded her to get additional dowry from her parents house and they harassed her both mentally and physically, and respondents caused domestic violence to her . Further, P.W.1 deposed that the respondents willfully neglected to maintain herself and her children's by driven out them from their house and they are completely depending upon her parents and they have no means to maintain and whereas the respondent No.1 is having Ac. 4-00 cents dry land, one RCC slabbed house and one vacant site at Kalavarai village and out of cultivation the lands, the respondent No.1 nearly getting Rs. 2,00,000/- per annum and she is entitled for the reliefs and pass order in her favour.

12. The respondents have received notices of this petition and they filed counter and later they did not attend to the court and they failed to cross-examine P.W.1 for disproving the case of petitioners. When there is no cross-examination of P.W.1 from the respondents, it can be presumed that the respondents have admitted the case of the petitioners. It is admitted fact that P.W.1 did not produce any piece of paper for showing that respondent no.1 is having lands, slabbed house and vacant site in Kalavarai village and he is getting income of Rs. 2,00,000/- per annum in cultivation. It is the duty of respondents to cross-examine P.W.1 and to deny the case of petitioners but the respondents failed to do the same. Furthermore, the respondents did not lead any evidence in support of their case. As seen from the chief affidavit of petitioner no.1, it is crystal clear that petitioner no.1 is wife and petitioners no.2 to 4 are daughter and sons of respondent no.1 and that petitioners were subjected to domestic violence and petitioners having no shelter and they have no means to maintain themselves and respondent no.1 is in earning capacity and that the petitioners are residing separately from the respondent no.1 .

13. It is also proved from the evidence of P.W.1 that respondents no.2 and 3 are family members of respondent no.1. Since there is no denial with regard to the case of the petitioners by the respondents, the case of the petitioners remained as unchallenged. In that circumstances, this Court has no other alternative except to believe the case of the petitioners in holding that the petitioners are entitled to the reliefs claimed by them in their petition. Accordingly, I answered Point No.A to Din favour of the petitioners and against the respondents.

14. In the result, this petition is allowed with the following findings:

(A) Respondent No.1 is directed to pay Rs.2000/- per month to the petitioners no.1 to 4 towards their rental charges for the accommodation on or before 10th of every succeeding month.

(B). Respondent No.1 is directed to pay Rs.1000/- each per month to the Petitioner No.1 to 4 towards their monthly maintenance from the date of this order on or before 10th of every succeeding month.

(C) Respondents No.1 is directed to pay medical expenses of Rs.10,000/- to the Petitioner No.1 within one month from the date of this order, towards physical harassment caused by the respondent No.1.

(E) Respondents No.1 to 3 are directed to pay compensation of Rs.30,000/- to the Petitioner No.1 to 4 within one month from the date of this order, towards emotional distress, mental tortured caused by the respondents.

Typed by my Stenographer on my dictation, corrected, signed and pronounced by me in open court on this the 14th day of December, 2021.

Sd/- P.Nageswara Rao,
Judicial Magistrate of First Class,
Bobbili

Appendix of Evidence

Witnesses Examined :

For Petitioners :

P.W.1 : Yegireddi Nagamani

For Respondents: Nil

Exhibits Marked :

For Petitioners: Nil

For Respondents: Nil

Sd/- P.Nageswara Rao,
Judicial Magistrate of First class,
Bobbili

(Office is directed to give one copy of this order to Petitioner No.1 on free of cost and also send one copy of this order to The Protection Officer concerned).