

IN THE COURT OF THE ADDL.CIVIL JUDGE & J.M.F.C-II.,
AT: KARWAR

PRESENT: **Sri. FAWAZ. P.A.**
 B.A LL.B.,
 Addl.Civil Judge & J.M.F.C-II of Karwar

Criminal Misc. No.4/2020

Dated: 17th Day of February, 2021.

Petitioner: Smt. Jayanti W/o Nandeesh Patgar,
 D/o, Sukru Giriya Patgar and others,

(By Sri. M.M.M.,Adv)

- Vs -

Respondent: Mr.Nandeesh Ishwar Patgar S/o
 Ishwar Honnappa Patgar and others,

(By Sri.R.S.H(G).,Adv for R.1)

(By Sri.V.M.K.,Adv for R.2to5)

ORDER ON THE INTERIM APPLICATION FILED UNDER
SECTION 23 R/W SECTION 20(d) OF D.V ACT

Petitioners filed this petition under section 12 of the Domestic Violence act,2005 seeking for the relief of residence Order, monetary relief and compensation. The Respondent no.1 had filed his detailed objections and prayed to dismissed this petition with cost.

2. The First Petitioner submits that on 10-05-2006 marriage between her and First Respondent was solemnized, as per Hindu rituals. Second Petitioner and Third Petitioner are children of First Petitioner and First Respondent. The Respondent is an employee at Pollution Control Board, Haveri. Respondent no.2 to 5 are his family members. Before the marriage Respondent's family visited the First Petitioner's house and demanded dowry of 15 pounds of Gold and Rs. 50,000/- in cash. However the Father of the First Petitioner's requested the Respondents that not to demand dowry. But the Respondents did not listen to it. As there was no any way father of Petitioner accepted the demand and he honoured his daughter. After the marriage they lived at Karwar, at the initial stage, the relationship was cordial. In the later, the First Respondent started to come home in the late nights and he was seen talking to another woman over phone in the late nights. When the First Petitioner enquired about the same, she was abused with filthy languages and she was scolded by him. That on 06-08-2007 Second Petitioner was born. At that time, the illicit relationship of the

Respondent was strengthened and when the First Petitioner enquired about the same, she was abused and assaulted badly. He was not paying single paisa for maintaining the household. He was not a loving husband as well as caring father. As the First Respondent did not give any amount for maintenance it was difficult for the First Petitioner to manage the household expenses, medical expenses etc. As the Second Petitioner at the age of six months, as per their culture, there was a function conducted for the said function, First Respondent demanded the First Petitioner, that he require a Gold chain to wear. But the First Petitioner refused, because those ornaments which was honoured by her parents were sold by him. The First Respondent kept on abusing, insulting her and thereby torture her. As the frustration reached its zenith he pulled out of Mangala Suthra and a pair of Bangles from the First Petitioner and he presented her a garentey chain. He was also abused her, stating that she does not deserve to wear Mangala Suthra. The First Petitioner informed the harassment of First Respondent with the other Respondents they did not support her and they

suggested to look after her family by herself. Even then the First Petitioner consumed Second Petitioner as she was forced. The harassment towards the First Petitioner with regard to the dowry and verbal abuse, economic abuse continued in different ways by the First Respondent. The other Respondents indirectly supported him, by advising First Petitioner that to adjust for everything, as a result of these violence she filed this petition

3. The First Respondent filed his objections. He admitted the relationship with the Petitioners. In his objections, he has submitted that the averments made by the Petitioners is totally false and the allegation of payment of Rs. 50,000/- in cash and 15 thola of Gold, towards the dowry is false. Such averments are just to colour the petition. First Respondent was working in Regional office KSPCB, Karwar at the time of marriage and he was transferred to Manipal, then he came back to Karwar and presently he is working at Haveri. He submits that, having acquainted with staff and management of, St. Joseph School, in the year 2015, he availed job for First Petitioner as temporary Teaching staff in

the year 2017. When the First Respondent was transferred to Haveri District, he requested the First Petitioner to join him as he hired a rented house at Haveri. He further emphasizes the First Petitioner, but she neglected and deserted him. He further submits that, he was always concerned about the well-being of the First Petitioner. In the argument of the First Respondent it was submitted that he does not have any salary as alleged by the Petitioner. He further submits that he is being paying monthly rent and school fees, school expenses and rent of house. He submits that he has loan and liabilities. He has not specifically denied that he is paid Rs.50,000/- salary. He submitted that he has to look after aged old parents and their medical expenses everything. Hence, prayed to dismiss this application.

4. The Petitioner filed 8 documents in support of their case. The First Respondent filed 25 documents.

5. Heard arguments on the both sides and perused documents placed on record and following points arise for my consideration.

1. Whether the Petitioners have made out prima facie case of domestic violence?
 2. Whether the Petitioners are entitle for Interim monthly maintenance of Rs.15,000/-(fifteen thousand)?
 3. What order?
6. My answers to the above points are as under:
- Point No.1 : In **Affirmative.**
- Point No.2 : In **Partly Affirmative.**
- Point No.3 : As per the final order,
for the following:

REASONS

7. **Point No.1 and 2:-** These Points are inter related, hence they are discussed together to avoid repetition of facts. The relationship between the parties is not disputed. The Petitioners filed this petition for the relief of residence Order, Monetary relief and Compensation Order. The Respondent No.1 has filed his detailed objections to the main petition denying all the averments of Petitioner. At the time of filing of this application the Petitioner had prayed relief against all the

Respondents, later on Petitioners, not pressed there prayer against the Respondent No.2 to 5 by filing a memo.

8. Inorder to discuss this application, court should first come to the conclusion were the Domestic relationship between the Petitioner and First Respondent subsist or not. As per the admissions made by the both parties the relationship between the Petitioner and First Respondent is admitted, at the time of filing of this petition. Hence, the definition of Domestic Relationship as per the Protection of women from Domestic Violence Act 2005. It is quite evident that the ingredients required to define Domestic Relationship subsist in this case.

9. As Domestic Relationship existed certainly, duty casted up on this court is to discuss with regard to Domestic Violence, that would have taken place between Petitioner and First Respondent need to be discussed. According to the averments, the demand of dowry prior to the marriage of First Petitioner and First Respondent is to be establish by the Petitioner by placing valued, cogent evidence before this court.

With regard to the Economic abuse the averments of the Petitioner that First Respondent is earning good salary and he is not maintaining them cannot be kept away, because the First Respondent has produced 25 documents, out of which he has produced some of counter statements of deposit slips made in favour of the first Petitioner. Those counter slips explains that those were of the Year 2013-14. Thereafter he has produced some of the Cash Invoice Bills of some purchases and there shopping. Those documents are attested before notary public, which are to be proved by the First Respondent stepping into Witness Box. However, the First Respondent did not produced any documents to come to the conclusion that during the time of filing of this petition he was giving maintenance to the Petitioners. The salary certificates produced by the Petitioner which was given to her by Karnataka Pollution Control Board and another document produced by First Respondent himself clearly establishes that the salary earned by the First Respondent at present is Rs.55,209/- as on 17-10-2020. The Economic abuse by the First Respondent against the Petitioners is quite

understandable at this moment. The First Respondent having illicit Relationship which is averred by the First Petitioner in her petition, at the time of delivery of Second Petitioner, the First Respondent strengthened his illicit relationship and when she questioned him, he was violent against her. The facts of this case is quite evidently explains ingredient that are required to understand the concept of Domestic Violence.

10. As this court has come to the conclusion with regard to Domestic Relationship and Domestic Violence, against the First Respondent this court would like to discuss about the Aggrieved Person. According to the definition of Aggrieved Person, a women who is, or has been, in a Domestic Relationship with the Respondent and who was subjected to any Act of Domestic Violence by the First Respondent is called as Aggrieved Person. In this case this court has come to the conclusion with regard to Domestic Relationship and Domestic Violence that had taken place during the time of filing of this petition. According to this finding, of this court the First Petitioner can be called as Aggrieved Person in this case.

11. Inorder to dispose of this application the court has taken up above views and this court has to come to the conclusion that prima facie the Petitioner established an act of Domestic Violence by the First Respondent.

12. Inorder to rebut the findings of this court the First Respondent have opportunity by placing oral and documentary evidence before this court. The Income of First Petitioner that she is working as Physical Education Trainer in school at Karwar can be established with documents by the First Respondent during the time of trial. At this moment this court would like to discuss only with regard to Interim Maintenance.

13. In view of the above discussions, ***I answer Point no.1 Affirmatively and Point no.2 Partly Affirmative.***

14. **Point No.3:** In view of the above discussions and answering ***Point No.1 Affirmatively and answering Point no.2 Partly Affirmative,*** I proceed to pass the following order :

ORDER

The application filed by the Petitioners under section 23(d) of Protection of Women from Domestic Violence Act 2005 is Partly allowed.

The First Respondent is directed to pay Rs. 9,000/- (Rupees Nine Thousand only) to the Petitioners from the date of this petition till the disposal of this case.

Out of said Rs. 9,000/- the First Respondent shall pay Rs.5,000/- to the First Petitioner, Rs. 2,000/- to Second Petitioner and Rs. 2,000/- to the Third Petitioner.

The prayer against the Respondents No.2 to 5 is hereby dismissed as not pressed.

(Dictated to the stenographer, transcribed by her, transcript revised by me, corrected, signed and then pronounced in the open Court on this 17th day of February, 2021.)

(FAWAZ. P.A),
Addl. Civil Judge & JMFC-II.,
Karwar.

