

KABI410153042024



IN THE COURT OF THE PRINCIPAL CIVIL JUDGE & JMFC., HOSAPETE

PRESENT :

SRI. PRASHANTH NAGALAPUR

B.B.A., LL.B (Hon's)

Prncipal Civil Judge & JMFC., HOSAPETE

Dated this the 21st day of December, 2024

Cri. Misc.No.1766/2024

1. Akshaya Saraf, D/o Ajay Saraj, Aged 32 years,
R/o House No.1223, Shree Govindam, 30th
Ward, Opposite Gujjal Petrol Bunk, Sai Baba
Temple Road, Hosapete.

...Petitioner

(By Sri. H.A.K. / A.G., Advocates)

V/s.

1. Harsh Agarwal son of late Vinay Agarwal,
Aged 36 years, R/o Level 15, Concorde
Towers, UB City, Vittal Malya Road, Bengaluru

...Respondent

:: I.A. I ::

1. Akshaya Saraf, D/o Ajay Saraj, Aged 32 years,
R/o House No.1223, Shree Govindam, 30th
Ward, Opposite Gujjal Petrol Bunk, Sai Baba
Temple Road, Hosapete.

..Applicant / Petitioner

V/s.

1. Harsh Agarwal son of late Vinay Agarwal,
Aged 36 years, R/o Level 15, Concorde
Towers, UB City, Vittal Malya Road,
Bengaluru.

.. Opponent / Respondent

ORDER ON APPLICATION U/SEC. 23 OF PWDV ACT

The petitioner has filed this application under Section 18 read with Section 23 of Protection of Women from Domestic Violence Act 2005, seeking protection order against the respondent.

2. The marriage of the petitioner and respondent was solemnized on 24.06.2022 at Hotel Grand Hyatt, Goa as per the Hindu rites and customs in the presence of elders and well wishers. The respondent, his mother and his brother insisted the family of the petitioner to give silver coins to them to distribute to the guests, to have the wedding cards printed and also made other demands earlier to marriage. Considering the unreasonable demands, the petitioner got executed prenuptial agreement. However, when the petitioner brought up the fact of unreasonableness of the demands, the respondent turned violent and caused physical assault on the petitioner. There was such incident in April-May of 2022 i.e., earlier to marriage. The petitioner had to tolerate the cruelty keeping in mind reputation of her family. The family of the petitioner had to bear expenses of the marriage, as the respondent and his family did not contribute as agreed. The receptions were held at Hosapete and Bengaluru on 29.06.2022 and 06.07.2022. The family of the petitioner also bore the expenses of the char dham pilgrimage. The respondent instead of bonding with the petitioner, forced himself upon the petitioner and engaged in forced sexual activities. The petitioner became pregnant and came to her parental home at Hosapete for support. The petitioner realized that the respondent has falsely portrayed himself to be financially stable and successful businessman. The petitioner learnt that the mother of the respondent cheated several persons and committed financial frauds. The petitioner also learnt that the respondent and his brother are

accused of ill-treating their grand mother. The petitioner also learnt that the respondent is only interested in material luxurious funded by her family. The respondent insisted for registering the luxury apartment in Bengaluru in their names. The respondent insisted for sexual acts even during the gestation period of the petitioner. The petitioner gave birth to Aarav in Sparsh Hospital, Bengaluru. During the pregnancy the petitioner wished her son carry surnames of both the families. The respondent did not raise any objections at that time. However, after the birth, the respondent filled up the application for birth certificate in the name Aarav Agarwal, ignoring the surname of the family of the petitioner. The petitioner confronted the respondent with the document executed by him agreeing to include surname of the family of the petitioner at that time. The respondent unnecessarily picked up quarrels with the petitioner and twisted her neck in anger. The petitioner had to undergo treatment for the same. The respondent forced the petitioner to attend social gatherings when the baby was too young. The respondent started ill treating the petitioner when she refused to join him to such gatherings. The petitioner had to shift to her parental home at Hosapete when she was declared fit to travel. The respondent used to visit the petitioner and every time force her to engage in sexual intercourse. The respondent screamed at the petitioner during first Deepavali of their son, when their son's head wobbled and hit the Toy car brought by the respondent, though the said car was not meant for six months old baby. The petitioner realized that the respondent is reckless and careless parent of their son and therefore decided to end the marriage. In December 2023 the petitioner had to travel to Boston to attend her friend's wedding. The petitioner had to leave Aarav in the care of her parents and nurse Saritha. The respondent did not care to stay in Hosapete with his child. Considering the fact that the marriage

between her and respondent was irretrievably broken, the petitioner decided to dissolve the marriage while she was in the U.S. However, being the only child and knowing the loneliness it brought along with circumstances, the petitioner decided to conceive another child through legally and artificially assisted process. The petitioner underwent the said process and returned to Hosapete. The petitioner became pregnant for the second time. The petitioner explained her intention to separate. The respondent requested the petitioner to forgive him. Later he agreed to consult relationship counselor to seek assistance in ending the relationship on amicable terms. The respondent created a ruckus upon getting to know that their son Aarav's mundan was performed. The respondent began demanding to transfer the apartment in his name to pacify his anger. The respondent did not take care of his child and as a result there was an accident causing dislocation of the shoulder of the child. The respondent instead of taking care of the child left to Bengaluru. Since the respondent was aggressive and unreasonable, the petitioner insisted for divorce and entered into an agreement for dissolution of marriage on 16.05.2024. The petitioner had to transfer Car bearing Regn.No. KA-35/2512 in the name of the respondent during the said period as per demand of the respondent. The respondent postponed the filing of divorce petition on one or the other pretext. The respondent whenever visited the house of the petitioner at Hosapete made extortionate demands and physically abused the petitioner. In July 2024 the petitioner shifted to Bengaluru along with her mother, her son and sister Saritha. The petitioner found that the respondent had performed black magic in the house. On 14.08.2024 the petitioner gave birth to daughter Adithri. She returned to Hosapete with mother and children. Since October 2024 the petitioner and respondent are not in talking terms. The respondent demanded that the

apartment be transferred to his name in order to put his signature on divorce petition. When the father of the petitioner refused the demand, the respondent tried to assault her father. The petitioner has been victim of physical, mental, emotional and financial violence at the hands of the respondent. The respondent has also been careless and reckless father to his son. The petitioner has been subject to humiliation and cruelty. There has been constant threat by the respondent to the petitioner and her family members. Therefore, the petitioner has filed the present application seeking exparte interim protection order.

3. I have heard the argument advanced by the learned counsel for petitioner – Sri. H.A.K, Advocate. I have perused the material available on record.

4. The following points arise for determination.

1) Whether there is a likelihood that the respondent may commit an act of domestic violence, if an exparte interim order is not passed ?

2) What Order ?

5. My answers to the above points are as under :-

Point No.1 .. In the Affirmative

Point No.2 .. As per final order for the following :-

REASONS

6. **POINT No.1** :- The petitioner has filed petition U/sec. 12 read with Section 18 of Protection of Women from Domestic Violence Act, 2005 (herein after referred to as "the Act"). The petitioner has filed the present application

U/sec. 23 of the Act seeking ex parte interim protection order from the respondent pending disposal of the above said petition. Section 23(2) of the Act reads as under :-

If the Magistrate is satisfied that an application prima facie discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, he may grant an ex parte order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under section 18, section 19, section 20, section 21 or, as the case may be, section 22 against the respondent.

7. This Court is bound to look into the affidavit filed by the petitioner/aggrieved person to form its opinion regarding necessity of passing an ex parte order. Going through the contents of the affidavit, it is quite clear that the petitioner and respondent have lived together at Bengaluru and Hosapete in their respective houses after the marriage. It is also quite clear that there is domestic relationship between the petitioner and respondent by virtue of their marriage. The copies of wedding invitation card, photographs and the birth certificate of Aarav A Saraf disclose that the petitioner and respondent are wife and husband and they have got a son from their wedlock. The contents of the affidavit and the above said documents are sufficient to hold that the petitioner and respondent have got domestic relationship between them and they have lived together in a shared household at an earlier point of time. The prima facie allegations and the documents produced by the petitioner are sufficient to form such an opinion at this stage of the matter.

8. The petitioner has alleged that the respondent has always picked up quarrels and caused harm to their son during his visits to Hosapete. She has also alleged that she and her son have been physically abused by the respondent. She has also alleged that the respondent has been constantly making unlawful demands and threatening her and her parents. These allegations are yet to be proved by the petitioner in the present case. However, considering the facts and circumstances of the case and statements made on oath by the petitioner in her affidavit, I am of the opinion that the apprehension expressed by the petitioner cannot be ignored at this stage of the matter. When there is potential threat to the petitioner and her family members by the acts of the respondent, in order to avoid any unpleasant or violent acts committed in the near future, I deem it proper to issue *ex parte* interim protection order in the present case.

9. The petitioner has sought for an order to restrain the respondent from committing any act of domestic violence etc., which is very much available to her in Section 18 of the Act. Section 23 of the Act provides for granting interim orders in relation to relief available under Section 18 of the Act. If the present application is allowed without giving notice to the respondent, no harm will be caused to him. On the other hand, if no order is passed at this stage, the petitioner will be put to great hardship in case the respondent commits any act of domestic violence. At this stage of the matter, considering the specific allegations made in the affidavit supported by documents, I am of the opinion that there is necessity of granting *ex parte* interim protection order in favour of the petitioner against the respondent. I am satisfied that there is likelihood of respondent committing act of domestic

violence if no order is passed at this stage. **Hence, I answer Point No.1 in the Affirmative.**

10. **POINT No.2** :- In view of the foregoing discussion, I proceed to pass the following ;-

ORDER

The prayer of the petitioner seeking exparte protection order under Section 23(2) of Protection of Women from Domestic Violence Act is allowed.

The respondent is hereby restrained from

- (a) committing any act of domestic violence;
- (b) abiding or abetting in the commission of acts of domestic violence;
- (c) entering the place of residence of the petitioner or any other place frequented by the petitioner or her minor children;
- (d) attempting to communicate in any form, whatsoever, with the petitioner, her parents and her minor children, including personal oral or written or electronic or telephonic contact;
- (e) circulating any message about the petitioner, her parents and her minor children amongst the petitioner's family and friends or contacting them in any manner;
- (f) causing violence to the dependents of the petitioner, or other relatives or any person who gives petitioner assistance from domestic violence;

(g) from entering the place of business of the petitioner's family and from disrupting its day-to-day functioning in any manner;

Communicate this order to the Protection Officer, Hosapete and Police Inspector, Hosapete Town Police Station forthwith.

[Dictated to the stenographer directly to the computer, corrected by me in computer, and then, pronounced by me in the open Court this the 21st day of December, 2024]

Place: Hosapete .
Date: 21/12/2024.

[Prashanth Nagalapur]
Principal Civil Judge & JMFC, Hosapete .