

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-II,
ALAPPUZHA**

Present:- Ms.Lakshmy.S, Judicial First Class Magistrate-II

Dated this the 30th day of May, 2023

M.C.No.45/22

Petitioner : S.Vijayamma, 72yrs, W/o Dinesan
Vijayabhavan, Pathirapally,
Mararikulam South, Alappuzha
(By Adv.B.Sivadas)

Accused : Dinesan, aged 73yrs,
S/o Late P.M.Divakaran
Karottu House, Muhamma P.O
Alappuzha
(Exparte)

Section/Act : u/S.12 of the PWDV Act

This case coming for hearing on 27.05.2023 and the Court on this day passed the following

ORDER

This is an application filed u/S.12 of the Protection of Women from Domestic Violence Act, (hereafter mentioned as PWDV Act for short) seeking protection, residence, monetary orders and compensation u/S.18, 19, 20 and 22 of the Act.

2. The respondent did not appear and the petition was proceeded exparte. The matter was posted for evidence and the petitioner got herself examined as PW1.

3. Heard and perused records.

4. The petitioner who was examined as PW1 gave evidence that her marriage with the respondent got solemnised on 18.05.1978 and they were residing in the workplace of respondent in Mumbai. They

have two daughters in the marriage and as they were leading a happy life, PW1 gave her gold ornaments and patrimony to her husband. Later the respondent utilised the ornaments and money to go abroad in Dubai for a job. In order to start a business, the respondent demanded Rs.7lakhs from PW1 and she gave the money from her earnings. After the marriage of their first daughter, the respondent informed that he had another wife in Dubai and a son in the said relationship. PW1 was shocked to hear that and by then all her earnings and assets were grabbed by the respondent. When PW1 demanded her ornaments and money for the marriage of their second daughter, the respondent threatened PW1. Thus PW1 filed OP No.40/2009 before the Family Court to return the gold ornaments and it was decreed in her favour. Thereafter PW1 conducted the marriage of her second daughter. Now the respondent is living with another lady at Cherthala. In the month of October 2022, two persons came to the house of PW1 and threatened to evict her from the shared household. PW1 also got information that the respondent would alienate the shared household and property. Thus the complaint was filed.

6. The above testimony of PW1 regarding the domestic violence faced by her at the hands of respondent remain unchallenged. Hence she is entitled to get protection and residence order in her favour. The petitioner has already obtained a decree from the Hon'ble Family Court, Alappuzha to get back her gold ornaments. Hence the said prayer for monetary relief cannot be granted. No evidence is adduced to prove the suffering and hardship caused to PW1 at the hands of respondent and hence the prayer for compensation is also not allowed.

7. In the result, the petition is allowed as follows:-
- (i) The respondent is restrained from committing any physical assault on the petitioner and also from making any verbal communication

with the petitioner.

(ii) The respondent is also restrained from dispossessing or evicting the petitioner from the shared household.

(iii) The respondent is further restrained from disposing of or alienating the shared household by name Vijaya Bhavan, Pathirapally, Mararikulam South situated in 11 cents of property in Sy.No.289/12A of Pathirapally Village.

Dated this the 30th day of May, 2023.

sd/-

Judicial First Class Magistrate-II
Alappuzha

Appendix

Witnesses for petitioner:-

PW1. Vijayamma

Witnesses for respondent:-Nil

Exhibits for petitioner:- Nil

Exhibits for respondent:Nil

sd/-

Judicial First Class Magistrate-II

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Judicial First Class Magistrate-II
Alappuzha