

IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-1, MAVELIKARA

Present :- Sri. Japhinraj. J.B, Judicial First Class Magistrate – I

Dated this the 31st day of March, 2026.

MC 59/2022

Petitioner : 1. Geethu V, Aged 28 years, W/o. Viju K, Gayathri Nilayam, Pathiyoor East, Keerikkad, Alappuzha.

2. Vivek Viju, Aged 7 years, (Represented by Natural gurdian & Mother Geethu V)

3. Vyga Viju, Aged 4.5 years, (Represented by Natural gurdian & Mother Geethu V)
(By Adv. Anil Babu)

Respondent : Viju K, Aged 45 years, S/o. Kunju Krishnan, Parathapurathu Veedu, North Mankuzhy, Pallari Mangalam, Thekkekara Village, Mavelikara.
(By Adv. Shinu Shaji)

Section of Law : U/s. 12 of the Protection of Women from Domestic Violence Act, 2005

The petition, having been heard on 30.03.2026, the court passed the following on 31.3.2026.

ORDER

1. This is a petition filed u/s. 12 of the Protection of Women from Domestic Violence Act, 2005 (herein referred to as “the PWDV Act”).

2. **The case of the applicant/aggrieved person is as follows:** The first petitioner (herein referred to as “the applicant”) is the legally wedded wife of the respondent. Their marriage was solemnized on 09.11.2014 at Pathiyoor Sree Durga Devi Temple, in accordance with Hindu religious rites and ceremonies, in the presence of friends and relatives. The marriage was a love marriage. At the time of marriage, the applicant was pursuing her B.Com degree, while the respondent was employed with the Railways. The applicant entered into her marital life with ordinary expectations of

a village girl. However, from the very inception of marriage, she realized that the respondent was addicted to alcohol and only pretended affection towards her. Soon after the marriage, the respondent began harassing the applicant, demanding her ornaments. On her refusal, he assaulted her, compelling her to hand over the ornaments to avoid further harassment. Within one month of marriage, the applicant became pregnant. Even during her pregnancy, the respondent continued to harass her physically and mentally. She later discovered that he was addicted to drugs in addition to alcohol. When the applicant was admitted to the hospital for delivery, the respondent, under the influence of drugs, created a disturbance there. After delivery, while the applicant was at her parental home, the respondent arrived in a drunken state, harassed her physically, and forcibly took away the child. When her father attempted to intervene, the respondent pushed him aside and used abusive language. In 2017, the applicant again became pregnant. During her second pregnancy, the respondent continued to treat her with cruelty. In June 2018, the respondent, under the influence of drugs, assaulted the applicant by beating her, pulling her by the hair, dragging her to the ground, and kicking her abdomen. She was hospitalized, but the respondent misrepresented to the hospital authorities that her injuries were due to a fall. Her parents were informed and attempted to take her home, but the respondent resisted. Despite these incidents, the respondent continued his harassment. On one occasion, he slapped the applicant, used abusive language, and even beat their elder child when the child cried. The Ist petitioner's parents then took her and the children to their home. Later, the respondent promised to stop using drugs and was admitted to Parumala Hospital for de-addiction treatment, accompanied by the petitioner. However, he voluntarily sought discharge before completing treatment, claiming he

would abstain from drugs. Soon after, he resumed his abusive behavior. In July 2022, unable to bear the harassment, the applicant returned to her parental home. Before leaving, she lodged a complaint at Kurathikadu Police Station, and her father later filed another complaint at Kareelakulangara Police Station. The respondent subsequently sought forgiveness, and the applicant, out of pity, took him to VSM Hospital to consult a psychiatrist. However, he refused to change his behavior and continued harassment. On 26.08.2022, under the influence of drugs, the respondent brutally assaulted the petitioner by holding her neck tightly and chasing her. Fearing for her life, she fled the house. The applicant then returned to her parental home with her children. The respondent threatened over phone that he would end the lives of all petitioners if she did not return. His violent and unpredictable nature extended even to the children, whom he attacked, once attempting to kill the third petitioner by throwing her to the floor. The applicant realized that living with the respondent endangered her life. He failed to provide maintenance for her and the children, forcing her to depend on her parents. The children's school fees and related expenses amount to Rs. 6,000/- monthly, excluding food and clothing. The petitioner, working as a sales girl in a textile shop, earns only Rs. 6,000/- per month, which is insufficient. The respondent, employed in the Traffic Department of Indian Railways, earns approximately Rs. 50,000/- per month, which he spends on drugs and liquor. The petitioners require Rs. 15,000/- per month for maintenance, which the respondent is legally and morally bound to provide. His conduct shows no intention of fulfilling this obligation. Hence, the applicant seeks various reliefs under the PWDV Act.

3. **The respondent entered appearance and filed an objection contending as follows:-** The petition is not maintainable either in law or on facts. Except for the

statements expressly admitted, all other allegations are false, fabricated, and hence denied. The respondent has always lived with the petitioner as a loving husband, fulfilling all duties of care, affection, and financial support. Allegations of alcoholism, drug use, or domestic violence are false. As a Railway employee, the respondent has protected and provided for the petitioner and children. The applicant never treated the respondent as a husband, consistently misbehaved with him and his aged mother, and finally left the matrimonial home with the children solely because she refused to live with the respondent's mother. The respondent has never physically or mentally harassed the applicant. On both occasions of childbirth, he took leave from duty, cared for her in hospital, and continued to provide necessities when she stayed at her parental home. Allegations of drunken misbehavior during delivery or thereafter are false. The respondent has never insulted or abused the petitioner's parents. He regularly visited with clothes, medicines, and fruits, despite being mistreated by them. Allegations of assaults, threats, or harassment are fabricated. The petition contains vague claims without dates, times, or hospital records, which itself shows their falsity. The respondent has never undergone treatment for alcoholism; he was treated for diabetes at Parumala Hospital. The claim of de-addiction treatment is false. The respondent continues to discharge his responsibilities as a father, paying school fees and van charges for both children, which can be verified from school records. The applicant has no valid cause of action. At no time during their marital life did the respondent physically or mentally harass her. The petition is filed only to malign the respondent and portray him falsely before the Hon'ble Court. In compliance with the Hon'ble High Court's order, the respondent has been paying

₹7,500 per month towards maintenance. Hence the respondent seeks to dismiss the petition.

4. The petitioner was examined as PW1, and Exhibit P1 was marked on her side. No evidence was adduced by the respondent.

5. Following points arise for consideration:

1. Whether the applicant was subjected to domestic violence as defined under Section 3 of the Protection of Women from Domestic Violence Act, 2005?
2. Whether the applicant is entitled to get a protection order under Section 18 of the Protection of Women from Domestic Violence Act, 2005?
3. Are the petitioners entitled to receive monthly maintenance from the respondent?
4. What shall be the order?

6. Heard the learned counsel for the petitioners and the learned counsel for the respondent.

7. **Point No.1 & 2:** The applicant filed an affidavit in lieu of examination-in-chief, reiterating the allegations in the application. The applicant is the wife of the respondent. The 2nd and 3rd petitioners are the children of the applicant and respondent. It is not disputed that the applicant and respondent have resided together. PW1 has specifically deposed that she resided with the respondent for about 5 years. The respondent also claims that he has always lived with the applicant as a loving husband, fulfilling all duties of care, affection, and financial support. Therefore, it is evident that a domestic relationship exists between the applicant and the 1st respondent. For granting relief under the PWDV Act, the applicant must produce material that convinces the court of a reasonable likelihood of ongoing harm or danger, thereby justifying the need for protection. PW1 has deposed

to various instances of domestic violence committed against her by the respondent. The respondent denies the commission of any such acts.

8. PW1 has narrated several instances of domestic violence committed against her. She alleges that the respondent was habitually consuming alcohol and drugs and, under such influence, physically attacked her. She claims that he misbehaved during her deliveries, came drunk to the hospital, and created disturbances. She further states that he regularly harassed her, threatened to kill her over the phone, and subjected her to both physical and mental cruelty. The petition also accuses him of economic neglect, such as failing to provide maintenance despite court orders, demanding gold ornaments to cover debts, and not adequately supporting her and the children. During cross-examination, nothing substantial was brought out to discredit her on these allegations. She denied the suggestion that she created problems in order to shift to her parental home. On the respondent's side, no evidence was adduced. In these circumstances, the petitioner's case appears more probable.

9. **Explanation II to Section 3** provides that, "*for the purpose of determining whether any act, omission, commission or conduct of the respondent constitutes domestic violence under this section, the overall facts and circumstances of the case shall be taken into consideration.*" The evidence of PW1 sufficiently demonstrates instances of domestic violence. It is clear that the applicant was subjected to physical, economic and emotional abuse by the respondent, all of which fall within the ambit of Section 3 of the Act. At present, there is nothing before this court to completely dismiss the version of petitioners. As this Court is exercising jurisdiction under a benevolent statute designed to address the laments of womenfolk, due weightage

shall be given to such concerns voiced by the aggrieved. In that view of the matters, the plea for protection order is only to be upheld.

Hence these points are found in favour of the applicant.

10. Point No. 3:- The applicant claims ₹15,000 per month for the maintenance of herself and the children. The respondent, being the husband of the applicant, has a legal duty to maintain his wife and minor child. According to the applicant, the first respondent is employed in the Indian Railways and earns more than ₹50,000 per month. The respondent has not disclosed his income in the objection but contends that he is paying a monthly sum of ₹7,500 to the applicant as per the order of the Hon'ble High Court. The respondent has not taken the stance that he is incapable of maintaining the petitioners.

11. Both the applicant and the respondent have filed affidavits of assets and liabilities. As per her affidavit, the applicant has a monthly expense of ₹18,000. She has also obtained an order from the Hon'ble Family Court granting maintenance of ₹13,000, though the order has not been produced. She claims to be spending ₹6,000 each for the children and further asserts that the respondent is earning ₹65,000 per month as salary. Apart from these, no other details have been provided by the applicant. According to the respondent's affidavit, he has a monthly income of ₹48,000 and is paying monthly maintenance of ₹13,000. He does not appear to have any other significant liabilities.

12. The materials before the Court indicate that the respondent has sufficient means to maintain the petitioners. He has not disputed his ability to pay the maintenance amount. The case before the Hon'ble Family Court appears to be from the year 2024, whereas the maintenance obligation here is to be reckoned from the

year 2022. Nevertheless, it is evident that the respondent was well able to provide a substantial sum towards the maintenance of the petitioners from 2022 itself. The second and third petitioners are entitled to a standard of living commensurate with that of the children of a Central Government employee. Therefore, the petitioners are entitled to a reasonable amount of maintenance, considering the living standards of both parties. On the basis of the materials available, I hold that a maintenance amount of ₹5,000 per month to the applicant and an additional ₹4,000 per month each to the children would be reasonable.

13. In ***Rejanesh v. Neha and Another***, (2021) 2 SCC 324, the Hon'ble Supreme Court held that: *“Even though a judicial discretion is conferred upon the Court to grant maintenance either from the date of application or from the date of the order in S.125(2) Cr.P.C., it would be appropriate to grant maintenance from the date of application in all cases, including S.125 Cr.P.C.”*. In the light of this dictum, it has to be held that the said maintenance sum shall be paid by the respondent to the petitioners with effect from the date of this application. Any payment effected by the respondent towards maintenance, and evidenced by records, if any, can be set off against the sum so payable.

This point is found accordingly.

14. **Point No. 3: In the result the petition is allowed as follow :-**

1. The Respondent is hereby restrained from committing any types of physical or mental cruelties against the petitioners.
2. The respondent is hereby directed to pay a sum of ₹5,000 per month to the applicant and ₹4,000 per month each to the second and third

petitioners, commencing from the date of this application. The total maintenance amount of ₹13,000 per month shall be paid to the applicant on or before the 7th day of each month. This amount shall be adjusted against any existing order of maintenance and shall not result in a cumulative liability.

Issue a copy of this order free of cost to the parties to the application and SHO, concerned.

(Directly typewritten in my personal laptop and pronounced by me on this the 31st day of March, 2026)

Sd/-
Judicial First class Magistrate-I

APPENDIX

Witnesses for petitioner

PW1 : Geethu V

Exhibits for petitioner:-

P1. Marriage Certificate

Witnesses for respondent: Nil

Exhibits for respondent:- Nil

Sd/-
Judicial First Class Magistrate-I
Mavelikara