

IN THE COURT OF SESSION, KOZHICODE DIVISION
Present:- Sri. Jennis Stephen Addl. Sessions Judge-V

Saturday the 23rd day of May 2026/2nd day of Jyeshtham, 1948

CRIMINAL APPEAL No. 502/2025

From which court the appeal is preferred	Judicial First Class Magistrate-IV, Kozhikode
Number of case in that court	CMP-2218/2015 in MC-51/2025
No. of the Appeal	Crl.A-502/2025
Name and description of the Appellant/Accused	Shasni.S, aged 32 years D/o Shanavas, Greenleyil Villa, Villa No.8, Chuliyode Road, Kozhikode
Name and Description of Respondents/Complainant	1. Jadeer Ahammed, aged 38 years S/o ahammed Haji, Rand Pilalkkal Soofi Manzil, Parakkadavu, Chekkiyad,Vadakara-673509 2. Ahammed Haji, aged 70 years, Rand Pilalkkal Soofi Manzil, Parakkadavu, Chekkiyad,Vadakara-673509 3. Maimoonath, aged 63 years, W/o Ahammed Haji,Rand Pilalkkal Soofi Manzil, Parakkadavu, Chekkiyad,Vadakara-673509 4. Muhammed Ashique, aged 32 years,S/o Ummar, Koolichalil Veedu, Kunnoth Paramb, Paral, Mahi-670671 5. Jumna, aged 29 years, W/o Muhammed Ashique, Koolichalil Veedu, Kunnoth Parambu, Paral, Mahi-670671
The sentence and the provision of law under which it was imposed by the Trial court.	1. The respondents are restrained from committing any act of domestic violence, whether physical or mental, against the petitioner, including at her residence at Green Lane Villa.

	2. The 1st respondent shall pay monthly maintenance to the petitioner at the rate of ₹10,000/- (Rupees Ten Thousand only), with effect from the date of filing of the application. The amount shall be paid on or before the 10th day of every succeeding month. 3. No order as to costs at this stage. In the result, this petition is partly allowed.
Whether confirmed, reversed or modified and if modified the modification.	Modified

Dates of:

Presentation	Filing	Issuance of notice to the respondents	Appellant ordered to appear	Release on execution of bail bond	Final Hearing	Order
15.12.2025	19.01.2026	17.12.2025	19.01.2026	-	22.05.2026	23.05.2026

This appeal coming on this the 22nd day of May 2026 for final hearing before me, upon perusing the appeal and record of evidence and proceedings and upon duly considering the same after hearing the arguments of Sri. P Muhammed Haneef Advocate for the appellant and Sri. Sanalkumar Padannapurath Advocate for 1st Respondent and Respondent No.2 to 5 not entered in appearance and I do adjudge and pass the following:

J U D G M E N T

This is an appeal filed under section 29 of the Protection of Women from Domestic Violence Act, 2005 (herein after referred to as “the PWDV Act”), challenging the interim order dated 06.12.2025 passed by the Judicial First Class Magistrate-IV, Kozhikode in CMP No. 2218 of 2025 in M.C No.51 of 2025 on the file of the said Court granting maintenance order and protection order to the respondent.

2. The appellant is the petitioner in the aforementioned CMP 2218 of 2025 as well as MC 51 of 2025. Respondents herein are the respondents in the aforesaid CMP 2218 of 2025.

3. The aggrieved person/appellant herein filed MC 51 of 2025 before the trial court seeking relief, including maintenance and protection order against the respondents. The allegations against the respondents are that the first respondent herein was married to the appellant on 30.10.2017 in accordance with the Muslim Marriage Act and was living together as husband and wife at the house of the first respondent. Thereafter, on the demand of the 1st respondent, the petitioner’s parents purchased a Villa using their pensionary benefits, which was registered jointly in the names of the petitioner and the 1st respondent. The petitioner alleged that the respondents 1 to 3 misappropriated her 125 sovereigns of gold ornaments and 75 sovereigns of gold coins, gifted by her parents at the time of marriage, for their business purpose abroad. It is also alleged that the respondents mentally and physically harassed the petitioner. Due to this, the petitioner’s parents purchased the

house near Civil Station and the petitioner and first respondent shifted to that house. Thereafter also the respondent continued to subject her to mental and physical cruelty. The petitioner seeks to restrain the respondents from subjecting her to any form of mental or physical cruelty and from attempting to evict her from the said house and filed the petition before the trial court. Accordingly, the appellant/aggrieved person also filed CMP No. 2218/2025 before the trial court under section 23(2) read with section 12 of the PWDV Act inter alia claiming protection order and interim maintenance amount of ₹25,000/- per month to the petitioner.

4. The respondents appeared and filed a counter statement in the matter and denied the allegations against them. It was stated that the petitioner has already obtained an ad-interim order from the trial court. According to him, the petitioner is a Doctor practising at Kollam District and resides with her family at Kollam. It is further submitted that a case is pending before the Family court, concerning the property known as Green Line Villas, in which an order has been passed restraining the transfer of his half share in the said property. Thereafter the petitioner obtained an ex parte protection order. He claims that the petitioner, with the assistance of the police and in his absence, broke open the lock of the house at Green Villas and took possession of his Scooter and other household items. Consequently he lodged a complaint before the police alleging that the petitioner had taken his valuables. After obtaining the interim order the petitioner locked the house and left for Kollam. The first respondent asserts that he purchased the house jointly in the name of the petitioner and the first respondent. According to him, the house in question was

constructed entirely using his earnings. Based on the interim order, he was subsequently evicted from the premises. Thereafter he is staying in hotels and as Paying Guests in Kozhikode. He further submitted that he has no permanent place to stay and hence prayed to dismiss the petition.

5. It is also stated that the respondents have not committed any domestic violence upon the petitioners and not misappropriated any gold ornaments of the petitioner. After hearing the petitioner and respondents and considering the averments in the petition, the learned Magistrate found that the house in question is jointly owned by both the petitioner and the respondent, and the respondent maintains that he has no other place of residence apart from this jointly owned property and considering these facts, the trial not inclined to grant the relief of eviction. The operative portion of the ad interim order passed by the learned Magistrate is extracted below;

1. The respondents are restrained from committing any act of domestic violence, whether physical or mental, against the petitioner at her residence at Green Line Villa.
2. The 1st respondent shall monthly maintenance to the petitioner at the rate of ₹10,000/- with effect from the date of filing of the application. The amount shall be paid on or before the 10th day of every succeeding month.
3. No order as to costs at this stage.

6. Being aggrieved by the impugned order of the learned Magistrate, this appeal has been filed by the appellant. The appellant contended that the order of the Magistrate regards the right of residence of the respondent is improper, illegal and wrong. The respondent has already filed a petition before the Family court showing his place of residence at his own house at Parakkadavu. The house was purchased by her using the fund of her parents and that the respondent has no role in purchasing the house. The hotel bill produced by the respondent is a manipulated one. It is also contended that the petitioner is entitled to get a protection order with respect to the same house, no wife is safe under the same shelter when more litigations are pending in between the parties which includes the allegation of harassment and domestic violence. The maintenance amount granted by the trial court is very low.

7. Heard both sides and perused the records.

8. Points that arise for consideration are:-

1. Whether the impugned order passed by the learned Magistrate, refusing to grant an order restraining the first respondent from entering the house named Green Line Villa at Chulliyode is legally sustainable and does it require any interference?

2. Whether any interference is called for in the order passed by the Magistrate directing the appellant to pay ₹10,000/- per month as maintenance ?
3. Order to be passed?

9. **Point No.1:-** The main contention raised by the appellant is regarding the order passed by the trial Court refusing to grant an order restraining the first respondent from entering the house named Green Lane Villa at Chulliyode. It is argued by the learned counsel for the appellant that the finding of the trial Court that the first respondent has no other place for accommodation is incorrect and baseless. The first respondent had filed a petition before the Family Court, Vatakara as OP 524 of 2025, showing his place of residence at Vatakara, which would show that the first respondent has another house in his own name. The appellant and the first respondent being at loggerheads, if the first respondent is permitted to reside in the house where the wife is residing, her life will be endangered. Having found that the appellant is entitled to get maintenance from the respondent, the trial court ought not to have allowed him to reside under the same roof that exclusively belongs to the petitioner. The hotel bill produced by the respondent is a manipulated document, and the reliance of the hotel bill by the Magistrate Court for refusing the relief to the appellant is incorrect. Therefore, the appellant is entitled to a protection order with respect to the same house, as she is not safe in the shared shelter while litigation between the parties is pending. It is also submitted that the first respondent has violated the interim order

from the court, which resulted in the filing of a complaint before the police. Therefore, she is seeking an order restraining the first respondent from entering the house.

10. The application is seriously opposed by the counsel for the first respondent. It is argued that the first respondent has no other place of residence and that the house was purchased from the respondent's funds. After obtaining the order in the CMP, the father of the appellant came to the house, took away some of the furniture and articles belonging to the first respondent, and the house was left vacant and abandoned. The door locks were taken by the father of the appellant. The first respondent filed a complaint before the Nadakavu Police regarding the removal of his articles and furniture, and the appellant subsequently filed a complaint to prejudice the first respondent's case.

11. By the impugned order, the Learned Magistrate has rejected the application filed by the appellant for restraining the respondent from entering the house named Green Lane Villa, where the appellant and the first respondent were staying together. It is not in dispute that the building in question is in the name of the appellant and the first respondent together. The proceedings before the Family Court, Vadakara, regarding title to the above building are still pending. The appellant is a resident of Kollam and is presently living there with her parents. The case of the appellant is that if the first respondent and appellant are living in the same house, there is a possibility of a threat to her life. However, on going through the averments

in the CMP, it can be seen that no specific allegation of physical violence has been raised by the appellant against the first respondent. The complaint filed by the appellant against the first respondent, alleging violation of the protection order, also does not allege any physical violence. That complaint was filed subsequent to the complaint filed by the first respondent against the father of the appellant. The respondent argues that he entered the house pursuant to the order dated 6-12-2025. At any rate, the complaint of violation of the protection order does not show any specific allegation of physical cruelty by the first respondent. The specific allegation of threat of physical cruelty has been alleged by the appellant is only against respondents 2 to 5. That is not a reason to restrain the first respondent from entering the house in his name at this stage.

12. However, on going through the order, I am of the opinion that a clarification is required regarding the entry of respondents 2 to 5 to the Villa where the first respondent is permitted to reside. The learned Magistrate had raised a specific point as to whether the petitioner is entitled to a protection order restraining the respondents from entering and causing any kind of domestic violence physically or mentally against the petitioner and the point was answered in favour of the petitioner. The prayer which was rejected was the prayer to restrain the first respondent from entering the house named Green Lane Villa. The appellant had raised allegations of specific threats by respondents 2 to 5 against her. The respondents 2 to 5 have no manner of right to enter the Villa named Green Lane Villa. Therefore, it is clarified that the respondents 2 to 5 are restrained from entering the residence of the appellant

and the first respondent named Green Lane Villa and the first respondent alone is permitted to enter the said Villa.

13. Considering the circumstances mentioned above, I am of the opinion that the reasons stated by the appellant are not sufficient to restrain the first respondent from entering the house at this stage. The circumstances do not warrant any interference with the order passed by the learned magistrate at this stage. However, needless to say, the appellant shall be free to approach the learned Magistrate for modification of the order, under Section 25(2) of the Act, if the circumstances so arise. The point is answered against the appellant.

14. **Point No. 2:-** The next contention raised by the appellant is regarding the quantum of maintenance. By the impugned order, the Learned Magistrate has fixed an amount of ₹10,000/- as interim monthly maintenance for the appellant. The appellant argues that the appellant requires ₹25,000/- per month. It is not in dispute that the appellant is employed as a Doctor. There are no children born in wedlock. At present, the Magistrate has fixed only the interim maintenance. In such circumstances, the amount of ₹ 10,000/- directed to be paid as maintenance cannot be considered to be on the lower side. The appellant is free to produce evidence to prove entitlement to a higher rate of maintenance at the time of the evidence. No interference is called for in the quantum of maintenance ordered. The point is answered against the appellant.

15. **Point No 3:-** In view of the above discussion, I find no reason to interfere with the order of the learned Magistrate and the Appeal is liable to be dismissed with the clarification that the respondents 2 to 5 are restrained from entering the residence of the appellant and the first respondent, named Green Lane Villa and the first respondent alone is permitted to enter the said Villa.

In the result, the appeal is dismissed with the clarification that the respondents 2 to 5 are restrained from entering the residence of the appellant and the first respondent, named Green Lane Villa and the first respondent alone is permitted to enter the said Villa.

(Dictated to the Confidential Assist., typed by her, corrected and pronounced by me in open Court on this the 23rd day of May, 2026).

Sd/-

Addl. Sessions Judge- V