



IN THE COURT OF GRAM NYAYALAYA IRITTY AT PAYAM

Present:- Sri.Mohamed Mausoom.P.T, BA LL.B (H), Nyayadhikari

Dated: 23rd day of June, 2025

CMP 62/2025

MC 02/2025

Petitioner : 1. Shalima.E
D/o.Asees, aged 29,
Shalima Manzil, Kolappa, Irikkur PO
Kannur District,
PIN - 670593
2. Muhammed Rayhan
Aged 8
3. Muhammed
Aged 1
[Petitioners 2&3 rep. by Petitioner no.1]
[Irikkur Police Station Limit]
(Rep. by Adv.K Muhammadali)

Vs.

Respondents : 1. M Nousheer
S/o.Raheem, aged 37,
Mullaali House, Peruvalathparamb,
Irikkur PO, Kannur District,
PIN - 670593
2. M Mariam
S/o.Raheem, aged 60,
Mullaali House, Peruvalathparamb,
Irikkur PO, Kannur District,
PIN - 670593
3. M Rasheeda
D/o.Raheem, aged 40,
Mullaali House, Peruvalathparamb,
Irikkur PO, Kannur District,
PIN - 670593
[Irikkur Police Station Limit]
(Rep. by Adv.P K Sajeevan)

ORDER

This is an application under section 23 of the Protection of Women from Domestic Violence Act, 2005 (**hereinafter referred to as 'Act'**) seeking an interim protection order against the respondents.

2. The application in brief is as follows:- The petitioner no.1 and respondent no.1 got married on 06.09.2014 as per Islamic rites. At the time of marriage, parents and relatives gifted 25 sovereigns of gold ornaments to the petitioner. From the very beginning of marriage, the petitioner no.1 was subjected to cruelty and also abused demanding dowry. In 2017, the respondents threatened and physically abused the petitioner no.1 upon which 15 sovereigns of gold ornaments were given for the purposes of setting up business in Bangalore. In the beginning of 2018, respondent no.1 took away 2 sovereigns of gold ornaments which were given as Mahr. In April 2019, respondent no.1 took her to Bangalore, wherein she was physically assaulted and her mobile phone destroyed after accusing her of talking to her brother-in-law. When the petitioner no.1 was pregnant for the second time, respondents forced her to cause miscarriage. The respondent no.3 held her, while respondent no.2 slapped her and respondent no.1 kicked her on the abdomen. On account of all this, the petitioner no.1 attempted to commit suicide upon which her parents took her to their house.

3. The respondent no.1 has neither visited nor given maintenance to the petitioners for the last one year. The petitioner no.1 has no job or income. The respondent no.1 is able bodied having business in Bangalore earning a monthly income of Rs.1,00,000/-. The respondent no.1 has rights over half of the undivided share in the petition schedule property and no other immovable property. The petitioner no.1 has reliable information that the property is being attempted to alienate which would cause prejudice to the petitioners in enforcing any orders that may be finally passed. Hence, the above application seeking an interim protection order u/s 18(a), attachment order u/s 18(e), monthly interim maintenance of Rs.15,000/- to petitioner no.1, Rs.7,500/- to petitioner no.2 and Rs.5,000/- to petitioner no.3 u/s 20(d).

4. Upon receipt of this application, notice was issued to the respondents and they submitted a counterstatement contending as follows:

The petitioner has no right to claim any relief as she is residing separately without any valid reason. The petitioner no.1 is a permanent employee in Sindoor Wedding Center and earning Rs.20,000/-(Twenty Thousand Rupees only) per month. The petition schedule property belongs to the second respondent wherein a house is being constructed. The first respondent has no manner of right over the same. The first respondent is a coolie worker and earns only Rs.500/- per day. All other averments in the interim application are denied being false and baseless. Hence, the application be dismissed with costs to the respondents.

5. Heard the learned counsels from both sides. Perused the records and the accompanying affidavit including the disclosure affidavit filed by both sides.

6. The following points arose for determination:

(i) *Whether the petitioners were subjected to any acts of domestic violence at the behest of the respondents?*

(ii) *Whether the petitioners are entitled to an interim protection order u/s18 of the Act?*

(iii) *Whether the petitioners are entitled to an order attaching the petition schedule property allegedly belonging to respondent no.1?*

(iv) *Whether the petitioners are entitled to interim maintenance from respondent no.1 as prayed for?*

7. Point no.1 & 2: Both points are considered together for the sake of convenience. The factum of marriage and domestic relationship between petitioners and respondents are not in dispute. The first petitioner is the wife of the first respondent and the other petitioners are their minor children. The second and third respondents are the mother and sister respectively of the first respondent. Upon perusal of the records, the accompanying affidavit and consideration of the arguments advanced by the learned counsels, this court is

of the view that the petitioners have succeeded in setting up a prima facie case of domestic violence committed at the behest of all the respondents. Since, at this stage no evidence is adduced, a finding can only be arrived at by taking into consideration the averments stated in the affidavit sworn in by the first petitioner. Hence, this Nyayalaya is of the view that it is only just and proper to grant an interim protection order in favour of petitioner no.1 so as to prevent any further acts of domestic violence. Hence, both points are found in favour of the petitioner.

8. Point no.3: The petition schedule property is sought to be attached during the pendency of the application filed u/s 12 of the Act [MC 02/2025] so as to effectively execute the orders if any that may be passed in favour of the petitioners upon its final adjudication. The petitioner no.1 in her affidavit has also stated from whence she got the information as to the respondent no.1's attempt to alienate the property. This court is of the view that an interim attachment over the petition schedule property until further orders of this court would not per se cause any prejudice to the respondents. Though it is submitted in the counter statement by the respondents that the property does not belong to the first respondent and that second respondent is its owner, in the disclosure affidavit filed by the first respondent, he has admitted to its joint ownership along with the second respondent. The same wouldn't have made any difference even if so in view of credible allegations regarding the role of second respondent in committing domestic violence. Therefore, it is only just and proper to attach the share of the property belonging to the first respondent for the time being as prayed for. Hence, this point is found in favour of the petitioner.

9. Point no.4: The petitioners have prayed for a monthly interim maintenance of Rs.15,000/-, Rs.7,500/- and Rs.5,000/- to petitioners no. 1 to 3 respectively. The respondent no.1 being the husband of petitioner no.1 and father of the other petitioners are legally obliged to maintain them. The petitioner no.1 has left the

matrimonial home only on account of the domestic violence committed by the respondents as discernible from the application. Hence the contentions put forth by the respondents do not help the respondent no.1 to escape from his obligation to maintain his family at this stage. The petitioner no.1 has maintained in the disclosure affidavit that she has no job or income while the same is disputed by the respondents. While the respondent no.1 submitted that he is a coolie worker earning only Rs.500/- per day. The court is of the view that the quantum of interim maintenance sought in the application is way more than necessary. The court is obliged to strike a balance between the rights of the aggrieved person and the financial burden upon the respondent. In considering the facts and circumstances, standard of living of the petitioners as much discernible from the application, the educational expenses of the second petitioner etc, this court is of the view that the petitioners no.1 to 3 can be awarded a monthly interim maintenance of Rs.3,000/- , Rs.2,000/- and Rs.1,000/- respectively. Hence , this point is found partly in favour of the petitioners.

In the result, the above application is allowed. No orders as to costs considering the facts and circumstances.

- A. The respondents herein above are hereby restrained by way of a **protection order under section 18 of the Protection of Women from Domestic Violence Act, 2005** from committing any physical or mental act of domestic violence against the petitioner no.1 herein above.
- B. The respondent no.1 shall pay a total of **Rs.6,000/- per month** as interim maintenance to petitioner no.1 for and on behalf of all the petitioners **from the date of the above application.**
- C. The undivided half share of the respondent no.1 over the petition schedule property, i.e, 2.43 ares of immovable property lying in Re.Survey No.64/137 of Irikkur amsom Kuttaav desom of Irikkur SRO belonging to

respondent no.1 & 2 is hereby restrained from alienation until further orders of the court.

D. The office is directed to communicate the order to the SRO concerned today itself.

E. Both parties shall be entitled to a copy of this order free of cost.

F. Any party aggrieved by this order may prefer an appeal within the prescribed period before the Hon'ble District and Sessions Judge, Thalassery.

G. The office shall furnish a copy of this order to SHO, Irikkur Police Station and Protection Officer, Kannur.

(Typed in my personal laptop and pronounced by me in the open court on this the 23rd day of June,2025)


23.06.2024
Nyayadhikari

Gram Nyayalaya Iritty at Payam