

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE I,
ALATHUR.**

Present:- Smt. Ancy. T, LL.B
Judicial First Class Magistrate.

Saturday, this the 1st day of June, 2019.
11th day of Jyaishta, 1941 (S.E)

MC 16/2019.

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|---|---|--------------------------------|
| 1. Fairos, Aged: 30 years, | } | Petitioners |
| W/o. Saithu Musthafa, Komathuparambil, | | |
| Puthenkalam, Vavullyapuram amsom | } | |
| desom, Alathur taluk, Palakkad. | | |
| 2. Kabeer, Aged: 14 years, S/o. Fairos, -do-. | | |
| 3. Fabila, Aged: 11 years, D/o. Fairos, -do-. | } | (BY Adv. Smt. T.S. Bindu Nair) |

vs.

Saithu Musthafa, Aged: 45 years,	}	
S/o. Abdul Rahiman, Arippara veedu,	}	Respondent
Thiruvazhiyad P.O, Kayaradi village,	}	
Chittur Taluk, Palakkad.	}	

Provision of Law	}	Punishable u/s. 12 of Protection of Women from Domestic Violence Act, 2005.
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Order	}	MC is allowed in part.
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The petition having been filed and heard today the court passed the following:

ORDER

This is a petition filed by the petitioner under sec. 12 of Protection of Women

from Domestic Violence Act, 2005.

2. The petition averments in brief is as follows:-

The marriage between the first petitioner and respondent was solemnized on 23.10.2003 as per Muslim religious rites and customs at Mass Auditorium in Anjumuri Puthukkode. The petitioners 2 and 3 were born in the wedlock. At the time of marriage thirty sovereigns of gold ornaments and an amount of Rs. 50,000/- (Fifty Thousand rupees) were given to her as gift. The above said amount was given to the respondent at the date of marriage itself. After marriage the first petitioner lived with the respondent for about 1 ½ years in his house. During January, 2005 the petition schedule property was purchased and sale deed No. 64/2005 of Alathur S.R.O was registered in favour of the petitioner and it was purchased by using the sale proceeds of her gold ornaments and the money obtained from her house. After that they used to reside in the petition schedule property. The respondent used to harass her after consuming liquor. The respondent visited their house only on Sundays. On inquiry, the petitioner came to know that the respondent was residing with one Fathima at Kecheri in Thrissur. When the first petitioner questioned the respondent about the above said Fathima, he beat her on her cheek and

hit her head on wall. Hence she filed a complaint before the Alathur police and the police warned the respondent. Thereafter the respondent refused to visit the petitioners. On 10.11.2018 the respondent came to the house and harassed the petitioners brutally by demanding them to leave the house and also threatened to kill them by pouring kerosene. When the local politicians Vasu and Mohanan intervened, the respondent left the place. On fear of death, the first petitioner left the house and went to her parents home at Puthukkode. It is very difficult for the second and third petitioners who are studying in ninth and sixth class respectively to reach the Government School, Pazhambalakkode. According to the petitioner the respondent is a conductor and he is earning Rs. 900/- per day as wages. She added that the respondent earns Rs. 10,000/- per month from a quarry at Ambittantharisu. The petitioner has no job or source of income. Hence the first petitioner filed this petition restraining the respondent from causing any disturbance or problems to the peaceful residence of the petitioners and from evicting them from the petition schedule property, restraining the respondent from manhandling or assaulting the petitioners, restraining him from entering into the petition schedule property and from destroying the household articles therein and directing the respondent to give Rs. 5,000/- per

month as maintenance to the first petitioner and Rs. 3,000/- each to the second and third petitioners and allowing the first petitioner to receive the maintenance amount on behalf of the second and third petitioners.

3. Eventhough notice was issued to the respondent, he didn't appear before the court and subsequently he was set ex-parte. After that the case was posted for the evidence of the petitioner. The petitioner filed affidavit in lieu of examination in chief in tune with the petition averments.

4. Now the point that arose for determination is;

(1) Whether the petitioners are entitled to get the reliefs as sought for?

(2). What is the order/relief?

5. **Point No. (1) and (2)**:- For the sake of brevity and convenience, these points are taken up together for discussion. The petitioner filed affidavit in lieu of examination in chief. Her affidavit is in tune with the petition averments. The unchallenged version of petitioner proved her case. I am satisfied that the petitioner was subjected to acts of domestic violence by the respondent. Hence the points are found in favour of the petitioner.

In the result, the petition is allowed as follows:-

- (i) The respondent is restrained from causing any obstructions to the peaceful enjoyment and possession of the petitioners in the petition schedule property ie, house bearing No. 6/556 in block No. VIII Re.svy No. 319/2 of Vavullyapuram desom and from evicting them from the petition schedule property.
- (ii). The respondent is restrained from manhandling or assaulting the petitioners or committing any acts of domestic violence.
- (iii). The respondent is restrained from entering into the petition schedule property and from causing any destruction to the household articles therein.
- (iv). The respondent is directed to pay monthly maintenance of an amount of Rs. 3,000/- (Three Thousand Rupees only) to the first petitioner and Rs. 1,500/- each (Thousand Five Hundred Rupees only) to the second and third petitioners, thus a total amount of Rs. 6,000/- (Six Thousand Rupees only) from the date of this petition. The first petitioner is entitled to receive the maintenance amount on behalf of the second and third

petitioners.

Dictated to the Confidential Assistant transcribed and typed by her, corrected by me and Pronounced in Open Court on this the 1st day of June, 2019.

Judicial First Class Magistrate I,
Alathur.

APPENDIX

Witnesses examined for Petitioner:- Nil

Exhibits marked for Petitioner:- Nil

Witnesses examined for Respondent:- Nil

Exhibits marked for Respondent:- Nil

Judicial First Class Magistrate I,
Alathur.