

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE -III,
NEYYATTINKARA**

**Present: Sri. Albin J. Thomas,
Judicial First Class Magistrate – III**

Dated : Tuesday, 03rd February, 2026/ 14th Magha, 1947

CMP No. 3359/2024 in M.C. No. 71/2024

Petitioners

1. Neha.T.John, Aged 27, D/o S.Johnson,
Thottam Purayidam, Puthiyathura.P.o,
Karumkulam Village.
2. Carly Joe, D/o Neha and Anthonis,
Thottam Purayidam, Puthiyathura.P.o,
Karumkulam Village.
3. Caitlyn Eliza, D/o Neha and Anthonis
Thottam Purayidam, Puthiyathura.P.o,
Karumkulam Village.

Represented by Adv. Girija.P.

Respondent

: Anthonis.R, Aged 30, S/o Ramya.S,
Valiyathoppu, Thekkekkara, Puthiyathura.P.O,
Karumkulam Village, Kanjiramkulam.

Represented by Adv. T.Raja Raja Singh

Petition

: U/s.23(2) of the Protection of Women from
Domestic Violence Act, 2005.

Sentence/ order

Interim order is allowed in part.

ORDER

1. This is the application filed by the applicant u/s.23 of the Protection of Women from Domestic Violence Act.
2. The averments in the application is as follows: Petitioner is the wife of the respondent. The 2nd and the 3rd petitioners are children born in the wedlock of respondent and the 1st petitioner. The respondent committed domestic

violence to the petitioners and the petitioners filed a petition u/s. 12 of the Act. Now the petitioner seeks interim protection order, residence order, custody order, maintenance and other ancillary reliefs.

3. Respondent filed objection denying that he had never committed any act of domestic violence. Petitioner is not entitled for the relief sought for. Petitioner is having monthly income of Rs.24,000/-. The respondent also have same right as that of the petitioner over the minor children. Hence the petition is only liable to be dismissed.
4. Heard the learned counsel for the applicant and learned counsel for the respondents. The following point arise for consideration.
 - 1) Whether the applicant is entitled to interim order as provided u/s. 23(1) of Protection of Women from Domestic Violence Act, 2005?
5. The Point:- Section 23(1) of the Act read as follows: *Power to grant interim and ex parte orders – (1) In any proceeding before him under this Act, the Magistrate may pass such interim order as he deems just and proper.* Hence this court has ample powers to pass interim order pending proceedings under this act. At this stage it is only to be considered whether there is any prima facie case in favour of the petitioners. There is no need to decide the reliefs on merit.
6. First and foremost the petitioner and the applicant has to show that she has resided along with the respondent. In order to claim reliefs there must be domestic relationship between the parties. The petitioner in the petition and affidavit specifically stated that she resided along with the respondent. Also the respondent admitted in his objection they have resided along with the

petitioners. Hence domestic relationship is established.

7. The major relief claimed by the petitioner is the protection order defined u/s. 18 of the Act. There is specific mention in the averments of petition that 1st petitioner had been subjected to domestic violence by the respondent. There is also domestic incident report filed by the 1st petitioner to support her claim. Even though the respondent in his objection contends that he never committed any act of domestic violence on the petitioners, the domestic incident report is sufficient to put forward a prima facie case in favour of petitioners. It is to be noted that the Act is a beneficial legislation for the well being of women who suffers domestic violence. Whether there is an act of domestic violence committed or not is to be considered in detail at a later stage after analysis of evidence. At this stage this court is only to look at whether there is a prima facie case of domestic violence. After perusal of materials on record, this court finds it reasonable that an interim protection order as envisaged u/s. 18 of the Act can be granted in favour of the petitioners.
8. The further relief sought by the petitioner is a residential order u/s. 19 of the Act to prohibit the respondent from dispossessing the petitioners from the Thottam Purayidam, Puthiyathura.P.O, Kanjiramkulam where the petitioner is currently residing. The residential address of the respondent is shown in the petition is different. The respondent in his objection did not raise any specific objection against the petitioners from residing in their current place of abode. If so an interim residential order can be granted in favour of the petitioners.
9. The petitioners seek for maintenance of Rs. 30,000/- from the respondent

as monthly maintenance. Both the petitioner and the respondent filed affidavit of assets and liabilities. I have perused the affidavit of assets and liabilities. The petitioner in her affidavit stated that she is not having any sufficient income. The 2nd and the 3rd petitioners are the minor children aged 5 and 1 years old. The respondent is a fisher man having monthly income of varying from 5,000/- to 10,000/-. Considering the entire facts and circumstances, this court is of the opinion that a interim maintenance of Rs. 7,500/- is to be granted to the petitioners for the monthly maintenance.

10. The petitioner further seeks for interim custody of minor children. As per section 21 of the Act, the court can grant interim custody of the children pending proceedings under the Act. Both the children are minors below 5 years. At this tender years it is better for the child to reside with the petitioner, who is the mother of the children rather than the respondent. The respondent is a fisherman and hence he will not get enough time to look after the minor children and to provide for their necessities. Hence this court is of the opinion that the interim custody of the minor children would be granted in favour of the 1st petitioner.

11. Considering the above discussion the application is allowed in part and the following interim orders are passed.

- a) The respondent is hereby restrained from committing any act of domestic violence against the petitioners ie, mental, physical, sexual, verbal, emotional and economic abuse.
- b) The respondent is hereby restrained from dispossessing the petitioners from the Thottam Purayidam, Puthiyathura.P.O, Kanjiramkulam and from causing disturbance to the peaceful residence of the petitioners therein.
- c) The respondent is hereby directed to provide an interim maintenance of

Rs.7,500/- until further orders.

- d) The petitioner is granted interim custody of the minor children till the disposal of the case and the respondent is restricted from acquiring forceful custody of the 2nd and the 3rd petitioners from the 1st petitioner.
- e) The Station House Office, Kanjiramkulam is directed to provide necessary assistance for the enforcement of orders.

Issue notice and copy of this order to the respondent by registered post if petitioner take steps and forward copy of the order to Station House Officer, Kanjiramkulam for favour of information and necessary action.

Comply with S.24 of the Act also.

Pronounced by me in open court on this the 03rd day of February, 2026.

Sd/-

JUDICIAL FIRST CLASS MAGISTRATE –III,
NEYATTINKARA

//True Copy//

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NEYATTINKARA