

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

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

Dated : Monday, 01st June, 2026/ 11th Jyaishta, 1948

CMP 02/2026 in MC 64/2021

Petitioner/Respondent : Praveen Gopal.V.S, Aged 42, S/o Venugopal,
Nishidha Nivas, Vallabhanvila, Ramapuram.
Now residing at Office cum residence
Mangalpadi, Kasargode.

Represented by Adv. Ranjith Chandran

Counter Petitioners/
Aggrieved person 1. Nishidha, D/o Prasannakumar,
Nishidha Nivas, Vallabhanvila, Ramapuram,
Thiruvananthapuram – District

2. Ishan Sanjay Gopal, S/o Praveen Gopal,
Nishidha Nivas, Vallabhanvila, Ramapuram,
Thiruvananthapuram – District

Rep. by Adv. Pathiripally S.Krishnakumary

Sentence/ order : Petition is allowed.

This application has been finally heard today and this Court passed the following on the same day.

ORDER

1) This is a petition filed by the respondent to set aside the order of exparte passed against him under the provisions of the Protection of Woman from Domestic Violence Act.

2) Averments in the petition is as follows:- Petitioner is the respondent (hereinafter respondent) in the above said case. The case was posted for filing objection of the respondent on 06.12.2025. However, he was not able to file objection on the same day since he was sick and bed-ridden due to the back pain. Hence, It was ordered to proceed against him ex parte. Hence he filed this petition

to set aside the order of ex parte passed against him.

3) The respondent (hereinafter the petitioner) filed objection stoutly opposing the application. The respondent was previously set ex parte to the proceedings on 15.02.2023 due to failure on his part to file the objection. Even after providing sufficient opportunities, the respondent willfully failed to file objection. No documents were seen produced from the side of respondent to show that he was actually sick on the relevant date. The respondent is intending to protract the matter, and the petition is only to be dismissed.

4) Heard both sides.

5) The points that arise for consideration is:

(1) Whether the application is liable to be allowed.

6) **Point No.1:-** The respondent was set ex parte by this Court on 06.12.2025, since he failed to file objection even after giving sufficient opportunities. The present petition was filed by the respondent when the case was posted for ex parte evidence. The respondent filed objection to the main petition u/s. 12 of the Act along with the petition. The learned counsel for respondent No. 1 argued that there was no willful latches from his part. He failed to attend the court since he was suffering from back pain. The learner counsel for petitioner argued that the respondent was already given sufficient opportunities and he neglected the same and was intending to protract the matter.

7) It is to be noted that even though in the petition filed by the respondent, he alleges that he was suffering due to back pain, no documents were seen produced to prove the same. Moreover, sufficient opportunities were already given to the respondent for filing objection also. Even though the respondent failed to put

forward a reasonable cause for his non-filing of objection, this Court is of the view that in order to dispose the case on merit a chance to defend his case has to be given to the respondent. At the same time, the pain taken by the petitioner to conduct the case has to be considered. The sufferings can be compensated by providing sufficient monetary relief to the petitioner. Considering the fact and circumstances of the case I am of the view that payment of a cost of Rs.2,000/- to the petitioner would serve the ends of justice.

8) In the result the CMP is allowed and the order of exparte dated 06.12.2025 passed against the respondent is set aside subject to following condition.

The respondent shall pay a cost of Rs. 2,000/- to the petitioner with in two weeks from today. The non compliance of the condition would automatically dismisses this petition.

Pronounced by me in open court on this the 01st day of June, 2026

Sd/-
JUDICIAL FIRST CLASS MAGISTRATE – III,
NEYATTINKARA

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JUDICIAL FIRST CLASS MAGISTRATE – III,
NEYATTINKARA