

The first petitioner and the respondent are wife and husband. The first petitioner is a Hindu, and the respondent is a Muslim. Their marriage was solemnised under the Special Marriage Act on 18.12.2010 before the

Marriage Officer, Kanyakulangara. It was a love marriage. After the marriage, they lived together as husband and wife. The second petitioner is the daughter born out of the said wedlock. The shared household is a rented house occupied by the respondent. From the very beginning of the marriage, the relationship between the first petitioner and the respondent was not cordial. The respondent subjected the first petitioner to physical and mental cruelty by demanding dowry. The respondent was working as a painter and was also engaged in arranging visas for foreign countries. The first petitioner is a mouth cancer patient and is undergoing treatment at RCC. The respondent failed to provide for her daily needs and medical expenses. The first petitioner has been meeting her basic needs and treatment expenses with the assistance of well-wishers through social media and society. The respondent has not paid any amount towards the maintenance of the petitioners. The first petitioner subsequently came to know that the respondent had developed an illicit relationship with one Anjana of Vembayam. Whenever the first petitioner questioned the respondent regarding the same, he subjected her to physical and mental harassment. On 14.10.2024, the respondent came to the shared household in an intoxicated state, used filthy language against the petitioners, manhandled the first petitioner, and attempted to evict her from the shared household, stating that he intended to marry Anjana. Under these circumstances, the petitioner has filed this petition seeking a protection order and other reliefs under the Protection of Women from Domestic Violence Act, 2005.

3. Notice was issued to the respondent through registered post. The notice to the respondent returned stating “unclaimed”. It amounts to deemed service. Even though the respondent was granted one more opportunity to appear before the court, he failed to do so. Hence, he was set at *exparte*, and the court proceeded with the *exparte* evidence of the petitioner.

4. On the side of the petitioner, she filed a proof affidavit in lieu of examination in chief and adduced evidence as PW1. The documents produced by the petitioner were marked as Ext. P1. With that, the petitioner's evidence was closed. Thereafter, this Court proceeded to consider the reliefs sought.

5. Heard the learned counsel for the petitioner and perused the records.

6. The points that arise for consideration are:

- (1) Whether the petitioner was subjected to domestic violence by the respondent as alleged?
- (2) Whether the petitioner is entitled to get a protection order u/S. 18 of the Act, as prayed for?
- (3) Whether the petitioner is entitled to an order u/S. 19 of the Act, restraining the respondent from disturbing her peaceful residence or evicting her from the shared household?
- (4) Whether the petitioners are entitled to a maintenance of Rs. 15,000/- for herself under Section 20(d) of the Protection of Women from Domestic Violence Act, 2005?
- (5) Whether the petitioner is entitled to an amount of Rs. 10,00,000/- as compensation against the Domestic Violence committed against the first petitioner?
- (6) Reliefs or costs, if any?

7. **Point Nos. 1 and 2:** For the sake of convenience, these points are considered together. The petitioner filed a proof affidavit in lieu of examination-in-chief, consistent with the averments in the petition, and adduced evidence as PW1. It is pertinent to note that the petitioner/PW1 was not subjected to any cross-examination by the respondent. Consequently, it goes without saying that the evidence adduced by PW1 remains unchallenged.

8. The case of the petitioner is that she and the respondent are wife and husband, and a daughter was born in the said wedlock. The petitioner and the respondent were residing together in the shared household, which is a rented house occupied by the respondent. Hence, it is evident that a domestic relationship existed between the petitioner and the respondent within the meaning of Section 2(f) of the Protection of Women from Domestic Violence Act.

9. The specific allegation of the petitioner is that she was subjected to physical and mental cruelty by the respondent. Several instances of such cruelty have been narrated in detail in her proof affidavit. In her chief affidavit, PW1 has specifically stated that the respondent assaulted the first petitioner and attempted to evict her from the shared household.

10. Since the evidence adduced by PW1 remains unchallenged, the same can safely be accepted as proved. On an appreciation of the uncontroverted oral and documentary evidence, this Court finds that the petitioner has successfully established that she was subjected to acts of domestic violence by the respondent. Accordingly, the petitioner qualifies as an “aggrieved person” as defined under Section 2(a) of the Protection of Women from Domestic Violence Act, and the petition is maintainable in law.

11. Now, let us examine whether the petitioner is entitled to the reliefs sought. Section 18 of the Act empowers this Court to pass a protection order in favour of the aggrieved person. Based on the unchallenged evidence of the petitioner, it is apparent that the respondent subjected her to mental and physical cruelty. There is no reason to disbelieve the petitioner's evidence, which stands unrefuted. Therefore, the petitioner has successfully proved that she was subjected to acts of domestic violence by

the respondent. Hence, I hold that the petitioner is entitled to a protection order against the respondent.

Accordingly, Point Nos. 1 and 2 are found in favour of the petitioner.

12. **Point No. 3:** The petitioner seeks an order under Section 19 of the PWDV Act, restraining the respondent from disturbing her peaceful occupation of the shared household and evicting her from there.

13. Based on the unchallenged evidence of PW1, I am satisfied that the respondent has committed acts of domestic violence against the petitioner. The petitioner has expressed apprehension that the respondent might commit further physical violence or dispossess her from the shared household, thereby disrupting her peaceful living. I find the petitioner's apprehension plausible. To prevent further acts of domestic violence, it is deemed fit to restrain the respondent from evicting the petitioner from her shared household or committing any acts that could disturb her peaceful living conditions.

Accordingly, Point No. 3 is found in favour of the petitioner.

14. **Point No:4** The petitioner has sought maintenance at the rate of ₹15,000/- per month each to the 1st and 2nd petitioners from the respondent. In the affidavit disclosing assets and liabilities, the petitioner has asserted that the respondent is a painter. However, there is no specific averment regarding the exact income of the respondent. Apart from her oral testimony, the petitioner has not produced any documentary evidence to substantiate the respondent's income or financial capacity.

15. Though the petitioner has filed an affidavit disclosing assets and liabilities stating that she has no independent source of income, no supporting documents have been produced to establish the same. Nevertheless, it is to be noted that the marital relationship between the parties and

the existence of a domestic relationship have already been established. The respondent, being the husband, is legally bound to maintain the 1st petitioner and the 1st petitioner, being the legally wedded wife and having no proved independent income, is entitled to reasonable maintenance. The 2nd petitioner is the daughter of the 1st petitioner and the respondent. The respondent has a duty to maintain his child. Accordingly, this Court finds it just and proper to award maintenance to the 1st petitioner at the rate of Rs. 5000 per month and the 2nd petitioner at the rate of Rs. 3000 per month from the respondent from the date of the petition. Any payment made by the respondent towards maintenance during the pendency of the case, as evidenced by records, may be set off against the amount payable.

Accordingly, Point No. 4 is found in favour of the petitioner.

16. **Point No. 5:** The petitioner has further sought compensation of Rs. 10,00,000/- under Section 22 of the Protection of Women from Domestic Violence Act, 2005, for the alleged mental and physical suffering caused to her as a result of domestic violence. Section 22 empowers the Court to grant compensation and damages for injuries, including mental torture and emotional distress, in addition to any other reliefs that may be granted under the Act. However, the grant of such compensation requires the petitioner to place before the Court material to establish the nature and extent of the loss or injury suffered.

17. The petitioner has not stated in her affidavit or petition as to the damages and injuries suffered by her due to the acts of domestic violence committed by the respondent. No evidence was adduced, either oral or documentary, before the court to enable the petitioner to claim such a huge amount as compensation. Even then, it has been proven that the petitioner is the victim of domestic violence and the same is committed by the respondent. Being the victim of the commission of domestic violence, the peti-

tioner must have suffered mental torture and emotional distress. Therefore, this court is of the view that the petitioner is entitled to general damages, though she failed to adduce evidence proving the special damages caused to her due to the act of the respondent.

18. However, the claim for compensation of ₹10,00,000/- appears to be excessive and not supported by sufficient evidence regarding the actual loss or injury suffered by her. This court is of the view that Rs. 50,000/- is sufficient as compensation for the general damages caused to the petitioner due to the acts of domestic violence on the part of the respondent. Accordingly, Point No. 5 is found partly in favour of the petitioner.

19. **Point No. 6:** In view of the findings of point Nos. 1 to 5, I hold that this petition is liable to be allowed.

In the result, the petition is allowed as per the following terms: -

1. The respondent is hereby restrained from committing any acts of mental or physical violence against the petitioners, aiding or abetting in the commission of domestic violence or causing violence to the dependents or other relatives who give assistance to the petitioners from domestic violence.
2. The Station House Officer (SHO) of Vattappara Police Station is directed to assist the petitioners in implementing this protection order.
3. The respondent is restrained from evicting or attempting to evict the petitioner from the shared household except through due process of law, and is further directed not to disturb her peaceful residence therein.
4. The respondent is directed to pay an amount of Rs 5000/- per month to the 1st petitioner and 3000/- per month to the 2nd petitioner to be paid on or before the 10th day of every month. The petitioner is entitled to receive this amount from the date of the application, with any interim maintenance already received to be set off against the payable amount.

5. The respondent is directed to pay an amount of Rs. 50,000/- towards compensation.

There is no order as to costs.

Issue copies of the order to the parties and to the SHO concerned free of cost.

Pronounced by me in open court on this the 4th June, 2026

Sd/-
JUDICIAL FIRST CLASS MAGISTRATE – I,
Nedumangad

APPENDIX

Witness examined for Petitioner:

PW1 – Shyni

Exhibits marked for Petitioner:

Ext P1 – Copy of Marriage Certificate - proved by PW1 – dated 18.12.2010

Witnesses examined for respondent

Nil

Exhibits marked for Respondent:

Nil

//True Copy//

JUDICIAL FIRST CLASS MAGISTRATE – I,
Nedumangad