

IN THE COURT OF JUDICIAL FIRST CLASS MAGISTRATE II,

NEDUMANGAD

Present: **Akshaya PR.**, Judicial First Class Magistrate-II

Nedumangad

Tuesday, 28th day of May, 2024/ 7th Jaishtha, 1946

M.C 38/2021

Petitioner	:	Girija, D/o.Kamalamma, Greeshmam, Dream Land, Tharatta road, Eanikkara, Karkaulam.P.O. Karakulam village, Nedumangad, Thiruvananthapuram district. (By Adv. Sri.S.K.Renju Bhaskar)
Respondent	:	1.Sindhukumari.G, D/o.Girija, Greeshmam, Dream Land, Tharatta road, Eanikkara, Karkaulam.P.O. Karakulam village, Nedumangad, Thiruvananthapuram district. 2. Anilkumar,S/o.Raman, Greeshmam, Dream Land, Tharatta road, Eanikkara, Karkaulam.P.O. Karakulam village, Nedumangad, Thiruvananthapuram district. (Respondent is set <i>ex-parte</i>)
Petition filed	:	U/s.12 of the Protection of Women from Domestic Violence Act 2005.
Order	:	Allowed_

This case having been finally heard today the court on the same day delivered the following :

ORDER

1. This is a petition filed u/s. 12 of the Protection of women from Domestic Violence Act, 2005.

2. Brief averments in the petition are as follows: The petitioner is the mother of first respondent and second respondent is her son-in-law. Petitioner is a senior citizen with many ailments. For the last seven years petitioner is residing with her elder daughter and her husband i.e. the present respondents in the aforesaid address which is the shared household. The Petitioner is related with the first respondent through consanguinity and with the second respondent through his marriage with her elder daughter.

3. Prior to this residence, the petitioner resided at Vithura along with the 1st respondent. At that time she was a divorcee. The Petitioner is having two daughters and the younger one is residing with her son at Vithura. 1st respondent persuaded and compelled the petitioner to shift residence to city area and believed her that she will look after the petitioner till her death and compelled her to purchase property in city area and for which 1st respondent obtained more than Rs. 10,00,000/- from her to purchase 8 cents of property at Karakulam. As a result, on 16.02.2022, 8 cents of property in Karakulam were purchased in the joint name of the petitioner and 1st respondent. Thereafter a double storied building having an area of 2800 sq. ft. was constructed and the petitioner herein had given thirteen lakhs for the construction of the ground floor to the 1st respondent and thereafter 1st respondent availed a housing loan and completed the first floor of the said building.

5. First respondent was working as a nursing tutor in Health department and she fell in love with second respondent and thereafter due to the adamant stand of the second respondent petitioner had arranged a small marriage function between them and thereafter second respondent is also resided with them and they showed much affection, care and love towards the petitioner. But gradually their attitude changed. The second respondent is a retired army man and used to invite his friends to shared household for their revelry. When this was complained by the petitioner, second respondent responded in an evasively and she also began to nag her.

6. One day petitioner saw her elder daughter was also consuming liquor with second respondent. Petitioner questioned this then the respondents tortured the petitioner mentally, physically, verbally and emotionally. Now the petitioner is suffering isolation, torturing and harassment from the side of respondents. Respondents looked all the rooms except the petitioner's bedroom. A two-wheeler used by the petitioner is withheld by the respondents by locking it with iron chain. On 6.2.2021 at about 7.30 a.m. second respondent break opened the almirah of the petitioner and took away Rs. 6000/- which was her senior citizen pension. When it was questioned by the petitioner second respondent twisted her hand and pressed her towards the wall and caught hold of her neck and snatched and taken away her gold chain with thali. first respondent assisted second respondent for the commission of offence. The respondent threatened to kill her. Petitioner made complaint to the police but they turned deaf ears to her grievance. At 7.00 p.m. on 10.02.2021 the respondents demanded her to vacate the house as they intend to give the house for rent. When she objected it, the respondents assaulted her. Petitioner complained against this to Aruvikkara police and the police warned the respondents. The respondents again mentally, physically, emotionally and verbally harassed and tortured the petitioner.

7. The respondents after consuming liquor entered into the room of the petitioner and demanded to vacate from there and assaulted her at 9.000 P.M. on 23.2.2021. The Petitioner has again preferred complaint to Aruvikkara police on 23.2.2021. But no action was taken so far. On 19.3.2021 at 8.00 a.m. 1st respondent damaged her mixer grinder and not allowing to prepare food. Respondents man handled her and when she alarmed people gathered there and local people suggested to complaint against this to police. Again on 19.3.2021 she had given complaint to Aruvikkara police. Again on 2.4.2021 at 8.30 a.m. respondents jointly harassed her to vacate from the house. Thereafter also the respondent continued to commit various kinds of domestic violences. Therefore, filed present petition seeking protection order, residence order and compensation order.

8. Even though notice was served, the respondents have not appeared before the court. Hence the case against the respondents proceeded *ex- parte*.

9. When the case was posted for adducing evidence, the petitioner herself mounted the witness box and was examined as PW1 and Ext.P3 marked. Ext-P1, Ext-P2 and Ext-P4 were rejected since those were photocopies.

10. The court heard the learned counsel for the petitioner and perused the records.

11. Following points that arise for consideration are: -

1. Are the petitioners entitled to get protection order as prayed for?
2. Reliefs and costs?

12. Point no.1 & 2 :-

For the sake of brevity and to avoid repetition, these points are considered together.

The case of the petitioner is that the respondent has committed various kinds of domestic violences including physical, verbal, economic and sexual abuses. Apart from that second respondent is a drunkard. Moreover, he created issues in the house and had made her life in the house miserable. Learned counsel then submitted that if protection order is not granted, the petitioner will not be able to live there peacefully and she will be put into irreparable injuries.

13. Through the unchallenged and oral evidence of the petitioner it is apparent that the respondent has committed domestic of various kinds against the petitioner. So if protection order and residence order are not granted, the petitioner will be put into irreparable loss and damage. Further, as known no contra material is brought before the court by the respondents to hold otherwise. Then regarding the order as to costs, I do not find it better to deviate from the general rule. Therefore let the respondents pay costs of the proceeding to the petitioner. Accordingly point no.1 and 2 are found in favour of the petitioner.

In the result, the petition is allowed as follows:

- (i)** The Respondents are restrained from committing any act of domestic violence against the petitioner.
- (ii)** The Respondents are restrained from aiding or abetting in the commission of acts of domestic violence against the petitioner.
- (iii)** The Respondents are restrained from contacting the petitioner over/through telephonic and other electronic media until further orders.
- (iv)** The Respondents are restrained from alienating the shared household or the assets which was enjoyed by both the parties jointly by aggrieved person and the respondents without the leave of the magistrate.

(v) The Respondents are restrained from causing violence to the dependents and relatives of the aggrieved person or any person especially her aged and sicked husband and also her younger daughter, who give the aggrieved person assistance from domestic violence.

(vi) The Respondents are restrained from prohibiting the respondent no. 1 and 2 from creating and causing any disturbances or disruptions or annoyances to the aggrieved person in the shared household of the aggrieved person.

(vii) The Respondents shall pay costs of the proceedings to the Petitioner.

Issue free copy of the order to both sides.

Pronounced by me in open court this the 28th day of May, 2024.

Judicial First Class Magistrate-II
Nedumangad

APPENDIX

Witnesses for the complainant:

PW1 : Girija, D/o.Subrahmanyam, Vithura

Extbs for the complainant:-

P1 : Sale deed proved by PW1 on 12.4.2024

P2 : Copy of R.C. book proved by PW1 on 12.4.2024

P3 : Original O.P.ticket proved by PW1 on 12.04.2024.

P4 : Copy of F I R in Crime no.107/2022 of Vithurs P.S. proved by PW1 on 12.04.2024.

P5series : Original O P ticket proved by PW1 on 12.04.2024.

P5(a) : – do -

P6 : Copy of complaint given to Rural S.P. , Thiruvananthapuram dated, 5.1.2023 rejected since it is a photocopy .

Judicial First Class Magistrate-II,
Nedumangad