



IN THE COURT OF I-ADDL. CIVIL JUDGE & J.M.F.C.,
AT KOLAR

:PRESENT:

Sri. SHRINIVAS PATIL. B.A. LL.B. LL.M.
I-Addl. Civil Judge & JMFC.,
KOLAR.

Dated this the **03rd** day of **July - 2023**

D.V.A. No.01/2021

- PLAINTIFF/S:**
- 1. Sumaiya Shaheen**
W/o. Mohammed Asifuddin,
Aged about 34 years,
 - 2. Master Mohammed Hamdanuddin**
S/o. Mohammed Asifuddin,
Aged about 2 years 4 months,
Since minor represented by his
Mother Sumiya Shaheen/
1st Petitioner.

Both are R/at: No.442, 1st Cross,
Near SS Star Cable Network,
Noor Nagar Kolar - 563101

(Rep: by Sri. **H.V. Adv.**)

- V/s -

- DEFENDANT/S:**
- 1. Mohammed Asifuddin**
S/o. Mohammed Aneesuddin,
Aged about 39 years,
 - 2. Mohammed Aneesuddin**
S/o. late. Khamruddin Patal
Aged about 70 years,

3. Sabeera Begum

W/o. Mohammed Annesuddin,
Aged about 64 years,

4. Mohammed Mazharuddin

S/o. Mohammed Annesuddin,
Aged about 33 years,

All are R/at. No.9-4-29/40,
New Hakeempet,
Tolichowki, Hyderabad,
Telangana – 500008.

(Ex-parte)

:- ORDER ON MAIN PETITION

The petitioners have filed this petition under Sec.12 of protection of woman from Domestic Violence Act, 2005, seeking for compensation, maintenance, protection order, residence order and custody of child as per Sec.18, 19, 20, 21 and 22 of protection of woman from Domestic Violence Act, 2005.

2. In the petition is it stated that the petitioner No.1 is the wife of respondent No.1, petitioner No.2 is the child of petitioner No.1 and respondent No.1, respondent

No.2 and 3 are the father-in-law and mother-in-law of petitioner No.1. Respondent No.4 is the brother-in-law of petitioner No.1. Petitioner No.1 and respondent No.1 met through Shaadi.Com. The respondent No.1 along with his family members approached the petitioner No.1's family and requested for the hand of the petitioner No.1. After the engagement, respondent No.1 and his parents made a demand for dowry and on failure to comply their demands the respondent No.1 and his parents threatened to call off the marriage. Father of petitioner No.1 gave sum of Rs.5,00,000/- to the respondent No.1 by way of cash as dowry, besides furniture and other items worth of Rs.2,00,000/- and jewelry worth about Rs.4,00,000/- and other house hold items. The parents of petitioner No.1 have arranged to perform the marriage and incurred a sum of Rs.20,00,000/-. The parents of petitioner No.1 have given the golden ornaments to respondent No.1 such as 1) 20 grams of finger rings, 2) 25 grams of bracelet, 3) 20 grams of gold chain, 4) hand watch, 5) shoes, 6) shuts and other cloths and the parents of petitioner No.1 have given

to petitioner No.1 golden ornaments such as 1) long Chain weighing about 38 grams, 2) Golden necklace weighing about 58 grams, 3) Bracelet, 4) Two pairs of golden Bangles, 5) Chain with pendant, 6) Thick twisted chain, 7) Set of ear rings, 8) 4 finger rings, 9) 3 set pairs of payals, 10) 3 set of rings, 11) T.V. 12) Furniture, 13) Refrigerator, 14) Washing machine.

3. After the marriage, petitioner No.1 started leading life along with her husband and in laws at Hyderabad. They kept her happy for 1 month, subsequently they started showing true color harassing her mentally as well as physically. They used to pick up quarrel with petitioner that she has not brought sufficient dowry and her family members have not complied the demands made by them and they have not provided any basic amenities to her. The respondent No.2 to 4 used to instigate the respondent No.1 to demand more dowry from petitioner No.1's parents. The respondent No.1 did not look after the petitioner with love and care. The

respondent No.1 used to abuse the petitioner No.1 repeatedly using vulgar and abusive language.

4. After few months the respondent No.1 took the petitioner No.1 to Dubai. After few days respondent No.1 started abusing the petitioner No.1, later they came back from Dubai and lived in the respondents' house and respondent No.4 once tried to burn the petitioner No.1, the said fact was brought to the notice to petitioner No.1's parents. Panchyath was conducted, but the same failed. The respondent No.1 decided to live in Kolar after few months, but in the year 2018 respondent No.1 deserted the petitioners and took away all the jewelry. After few days petitioner No.1 got a call from respondent No.1 that he is not going to return the jewelry and he is going to gift all the jewelry to his girlfriends. The respondent No.1 used to send the girlfriends photos with whom he was having affairs to hurt the petitioner No.1. The fact was brought to the notice of respondent No.2 and 3 but it yielded no fruits. The petitioner No.1 has suffered mental agony, tension by the irresponsible behavior of respondent No.1. The

petitioner No.1 is unable to look after herself and her minor child. Petitioner No.1 cannot seek her parents help to lead their life as they are senior citizens. The petitioner needs Rs.30,000/- per moth towards her maintenance and child treatment. Petitioner further submits that respondent No.1 is working in a good reputed company and he is drawing a handful salary of more than Rs.60.000/- and have sufficient means, but he has refused and neglected to maintain the petitioners. Hence, this petition is filed.

5. On issuance of notice to respondents, they have failed to mark their presence before this court. Hence objections of respondents taken as not filed and placed *ex-parte* .

6. Heard the learned counsel for petitioners. The following point arise for my consideration.

POINTS

- 1. Whether the petitioners prove that the respondents have committed atrocities towards her and she is entitled for protection order?**

- 2. Whether the petitioners are entitled for residence order?**
- 3. Whether the petitioners are entitled for monthly maintenance of Rs.30,000/-?**
- 4. Whether the petitioner No.1 is entitled for directing the husband not to take the custody of the child?**
- 5. Whether the petitioners are entitled for custody of all the belongings of petitioner No.1 and respondent No.1?**
- 6. Whether the petitioners are entitled for compensation of Rs.10,00,000/-?**
- 7. Whether the petitioners are the entitled for protection order?**
- 8. What order?**

7. In the order to prove the case of petitioners, petitioner No.1 has examined herself as PW.1 and got marked Ex.P.1 to P.23. Respondents have not appeared before the court. Therefore, evidence of respondents were taken as nil.

8. Heard the learned counsel for plaintiff and I have perused the entire materials available on record.

9. My answer to the above points are as follows:

- Point No.1 : In the **AFFIRMATIVE**
Point No.2 : **Partly** in the **AFFIRMATIVE**
Point No.3 : **Partly** in the **AFFIRMATIVE**
Point No.4 : In the **NEGATIVE**
Point No.5 : In the **AFFIRMATIVE**
Point No.6 : **Partly** in the **AFFIRMATIVE**
Point No.7 : In the **AFFIRMATIVE**
- Point No.8 : As per final **ORDER**,
for the following;

REASONS

10. POINT NO.1 to 7 : These points are interlinked, entwined and interwoven, these points are taken up together for common consideration and discussion in order to avoid repetition of facts.

10.1. The petitioners claim in brief is that, petitioner No.1 was married to respondent No.1. After the marriage the petitioner No.1 and respondent No.1 started to reside in Hyderabad. But, the petitioner No.1 was not taken care by the respondents. The

respondent No.2 and 3 used to instigate the respondent No.1 to bring the more dowry. Further, petitioner No.1 was taken to Dubai there also she was not treated properly. The respondents continuously harassed petitioner No.1 for the dowry. She was harassed both physically and mentally. Further, petitioner No.1 was brought to Kolar to lead marital life. The respondent No.1 failed to look after the petitioner No.1 with love and care, panchayth was conducted, same was failed. The parents of the petitioner No.1 are not in a position to look after petitioners. Therefore, petitioners have filed this petition seeking above mentioned reliefs.

11. The petitioners to substantiate their case, petitioner No.1 has examined herself as PW.1 and got marked Ex.P.1 to P.23. In her affidavit she has reiterated the averments made in the petition. The Nikha Nama is marked at Ex.P.1, Translated copy of Ex.P1 is marked at Ex.P.1(a), Marriage certificate is

marked at Ex.P.2, marriage invitation is marked at Ex.P.3. Birth certificate of petitioner No.2 is marked at Ex.P.4, bills are marked at Ex.P.5 to P.21, certified copy of Order sheet of crime No.33/2022 is marked at Ex.P.22, FIR, complaint and chargesheet are marked at Ex.P.23.

12. The learned counsel for petitioners submitted that petitioner No.1 married respondent No.1 with a fond hope of having a bless full marital life, but the respondent No.1 never treated the petitioner No.1 as his wife and respondent No.1 along with other respondents have constantly harassed the petitioner No.1 for dowry and other demands. The petitioner suffered both physically and mentally. Therefore, she seeks for allowing petition by granting the reliefs as sought for.

13. As noted earlier, the notice was served to respondents, but they have failed to mark their

attendance before this court. Hence, respondents evidence and cross of PW.1 was taken as nil.

14. The marital relationship between the respondent No.1 and petitioner No.1 is not in dispute. On perusal of Ex.P.1 and P1(a), P.2 and P.3 are clear that petitioner No.1 is the wife of respondent No.1. On perusal of Ex.P.4 it is clear that petitioner No.2 is the child of petitioner No.1 and respondent No.1. Ex.P.4 to P.21 are various bills for having purchased the gold ornaments from different vendors. Ex.P.22 is certified copy of order sheet in crime No.33/2020, Ex.P.23 is FIR, complaint and charge sheet. On perusal of Ex.P.22 and P.23, it *prima-facie* appears that there has been constant demand of dowry from the respondents. In view of the marking of these exhibits, they remain unchallenged. There are no contrary materials to disbelieve the version of the petitioner No.1. Therefore, I am of the opinion that the petitioners are able to prove the Domestic Violence committed by the

respondents to petitioner No.1. The petitioners have claimed Rs.10,00,000/- compensation towards atrocities committed to petitioner No.1. However, it must be noted here that petitioners have not produced any oral and documentary evidence to substantiate their claim regarding quantum of compensation. However, in view of the facts and circumstance of the case. I am of the opinion that petitioners are entitled for compensation of Rs.1,00,000/- from the respondents.

15. It is to be noted that respondent No.1 is husband of petitioner No.1. It becomes the bounden duty of the respondent No.1 to look after both petitioners. In the petition, petitioner No.1 has asserted that respondent No.1 is working in reputed company he is earning Rs.60,000/- per month. But no evidence is lead to establish the said assertion by the petitioners, apart from self serving statement. The petitioners are seeking for monthly maintenance of

Rs.30,000/- from him. But for reasons discussed above, I am of the opinion that both the petitioners are together entitled for Rs.15,000/- per month as maintenance.

16. The petitioners have also sought for residence orders in the petition, petitioners have sought the relief of under Sec.19(d) restraining the respondents from the alienating or dispossessing the shared household or encumbering the same. To substantiate the same petitioners have failed to produce documents relating to respondent No.1's share in the house. The court is not aware of the facts if the share household belongs to the respondent No.1. The petitioners have also sought relief under Sec.19(f) directing the respondent No.1 to secure the same level of alternative accommodation for the aggrieved person. The petitioners in this regard asserted in the petition that her parents are not in a position to look after her. Therefore, in the facts and circumstance of the case I

am of the opinion that the petitioners are entitled for Rs.8,000/- per month towards their rental house.

17. The petitioners have also sought for protection under Sec.18 of protection of women from Domestic Violation Act. As stated supra, the respondents have failed to mark their presence before this court and contest the case. Therefore, adverse inference is drawn against the respondents. In view of the absence of rebuttal evidence, the petitioner No.1 is entitled for protection orders as per Sec.18 of protection of woman from Domestic Violation Act.

18. The petitioners have contended that during the marriage gold ornaments were given to the respondent No.1 and petitioner No.1 by the petitioner No.1's parents. In support of the same petitioners have produced Ex.P.5 to P.21 which are the bills for having purchased the golden ornaments. To rebut the same the respondents have not appeared and contested the case. Therefore, the petitioners are

entitled for the custody of the golden ornaments of the petitioner No.1 as well as respondent No.1 which were given to the respondent No.1 at the time of marriage.

19. Petitioner has also sought for the relief of directing the respondent not to take the custody of the child. I have perused the partition averments. The averments nowhere state if any harm has been caused by the respondents to the petitioner No. 2. The relief sought being a negative one cannot be granted. Hence, I answer **Point No.1, 5 and 7** in the **AFFIRMATIVE**, **Point No.2, 3 and 6 Partly** in the **AFFIRMATIVE** and **Point No. 4** in the **NEGATIVE**.

20. **POINT No.8**: In view of reasons discussed above, this Court proceeds to pass the following:

ORDER

The petition filed by the petitioners under Sec.12 of Protection Of Woman from Domestic Violence Act, 2005 is hereby partly allowed.

Acting under Sec.22 of protection of woman from Domestic Violence Act, 2005 the respondents are hereby directed to pay compensation of Rs.1,00,000/-(One Lakh)

Acting under Sec.20 of Protection of Woman from Domestic Violence Act, 2005 the respondent No.1 is hereby directed to pay Rs.20,000/-(Twenty Thousand) to the petitioners together for monthly maintenance.

Acting under Sec.19(f) of Protection of Woman from Domestic Violence Act, 2005 the respondent No.1 is hereby directed to pay Rs.8,000/-(eight thousand) towards rental for the accommodation of the petitioners.

Acting under Sec.21 of protection of woman from Domestic Violence Act, 2005 the respondent No.1 is hereby directed to return all the belongings of the petitioner No.1 and respondent No.1 which were given to him at the time of marriage within 2 months from the date of the order.

Acting under Sec.18 of Protection of Woman from Domestic Violence Act, 2005

the respondents are prohibited from aiding and abetting in the commission of act of Domestic Violence against petitioners.

The respondents are hereby prohibited from commission of Domestic Violence against the petitioner No.1.

In compliance of Section 24 of Protection of Women from Domestic Violence Act, 2005 the office is directed to give free copy of the order to the parties.

(Dictated to the Stenographer, transcribed and computerized by him, revised, corrected and then pronounced by me in the open court on this the **03rd day of July - 2023**)

(SHRINIVAS PATIL)

I-Addl. Civil Judge & JMFC.,
KOLAR.

ANNEXURE

List of witnesses examined on behalf of the plaintiff/s:

PW.1 : Sumaiya Shaheen

List of documents marked on behalf of the plaintiff:

Ex.P.1 : Neeka Nama

Ex.P. 1(a) : Translate copy of Ex.P1

Ex.P.2 : Marriage certificate

Ex.P.3 : Marriage invitation

Ex.P.4 : Birth certificate of petitioner No.2

Ex.P.5to21 : Shaping Bills

Ex.P.22 : C/c of Order sheet of CR No.33/2022

Ex.P.23 : FIR, complaint and chargesheet

List of witnesses examined on behalf of defendants:

- NIL-

List of documents marked on behalf of the defendants:

- NIL-

I-Addl. Civil Judge & JMFC.,
KOLAR.