

IN THE COURT OF THE I-ADDITIONAL JUDICIAL
MAGISTRATE OF FIRST CLASS: AT: KALWAKURTHY.

Monday, this the 4th day of April, 2022.

Present:- **Smt.Sampathi Rao Chandana,**
I-Addl., Judicial Magistrate of First Class,
Kalwakurthy.

DVC No.05 of 2021

Between:-

1. Smt.Mallepakula Sindhuja W/o Mallepakula Raju, Aged about 33 years, Occ: House wife, R/o H.No.2-108, Kondareddypally village of Vangoor Mandal, Nagarkurnool District.
2. M.Vignesh S/o Mallepogula Raju, Age.5 years, moior.
3. Sriharsha D/o Mallepogula Raju, aged about 4 years, minor.

Petitioners Nos.2 and 3 are minor children under the guardianship of their natural mother i.e., petitioner no.1.

...Petitioners.

And

1. Mallepakula Raju, S/o M.Maisaiah, Aged about 38 years, Occ:Driver, R/o H.No.2- Kondareddypally village of Vangoor Mandal, Nagarkurnool District.
2. Mallepakula Maisaiah, S/o M.Mogulaiah, Aged about 65 years, Occ: Agriculture.
3. Mallepakula Venkamma W/o M.Maisaiah, Aged about 60 years, Occ: Agriculture.
4. Mallepakula Saidulu S/o M.Maisaiah, Aged about 40 years, Occ: Agriculture.
5. Smt.Laxmamma D/o Maisaiah, W/o Allagi, Aged about 40 years, Occ: House hold.
6. Allagi, S/o not known to her, Aged about 45 years, Occ: Agriculture.
7. Smt.Manemma D/o Maisaiah, W/o Ramulu, Aged about Major, Occ: House hold.

Respondents 2 to 7 are R/o Kondareddypally village of Vangoor Mandal and Nagarkurnool District.

...Respondents

Sub: - Complaint filed by the Petitioners U/s.12 of the Protection of women from Domestic violence Act, 2005.

This case coming before me for final disposal in the presence of Sri B.Mallesha Yadav, Advocate for the Petitioners and of the Respondents No.2 to 7 set ex-parte and having been stood over for consideration till this day the court delivered the following:-

ORDER

1. This DVC is filed by the aggrieved person against the respondents No.1 to 7 seeking the reliefs of protection order, residential order, monetary relief and compensatory order from the respondents as mentioned in the prayer portion of the petition.

2. The brief facts of the case are that, the petitioner no.1 filed the present DVC against the Respondents No.1 to 7 stating that the petitioner No.1 is the legally wedded wife of the respondent No.1 and their marriage was love cum inter caste marriage which was performed at Seetaramachandra Swamy temple at Sirusanagandla village, Vangoor Mandal. After their marriage the petitioner no.1 gave birth to petitioner no.2 on 17-02-2017 and petitioner no.3 on 04-10-2018. At the time of the marriage the petitioner arranged 6 tulas of gold ornaments and 50 tulas of silver ornaments and Rs.2,00,000/- to the respondents 2 and 3 and the same was arranged by the petitioner with her own earnings as a daily Labour. The parents of the petitioner no.1 are not consent to their marriage, therefore, there are no good terms between the petitioner and her parents.

Thereafter, the respondents 1 to 3 take back the gold and silver ornaments from the petitioner no.1 and did not provide any proper food to her and abused the petitioner in filthy language. After giving birth to the two children the respondent never look after the welfare of their children and the petitioner no.1 herself by working as a Labour look after her children. The respondents 4 and 6 warned the petitioner to leave their house, otherwise they kill the petitioner. The respondent no.2 also harassed the petitioner in several ways.

The petitioner further submitted that the respondent suspected corrector of the petitioner no.1 and abused her in filthy language and the respondents 2 to 7 are also harassed the petitioner no.1 on several occasions and brutally injured the petitioner, the Respondent no.1 never taken care of the welfare of the petitioners at any point of time, the respondent having Ac.7-00 agricultural land, which is an ancestral property and got sufficient means to provide maintenance to the petitioners. The petitioner no.1 several times approached the police Vangoor and Kalwakurthy by lodging several complaint, but the respondents stated before the police that they intending to settle the matter and later continued the same harassment. Thus the petitioner no.1 has no other go, she filed the present petition.

3. After receiving the summons from this court, R1 to R7 failed to appear before the court, hence they were set ex-parte on 30-12-2021.

4. During the course of the proceedings the complainant herself is examined as PW.1 and reiterated the contents of the petition in her chief examination and marked Exs.P1 and P2. Except the Pw.1 no further evidence was adduced on behalf of the the petitioners.

5. Heard the arguments and perused the Record.

6. In the present case on hand the petitioner stating that she is the legally wedded wife of respondent No.1/M.Raju and the petitioners 2 and 3 who are 5 and 3 years old of their children born out of their wedlock. The Exs.P1 and P2 marked in order to establish the marriage between petitioner and the respondent no.1.

7. The points for consideration are that :-

- i) Whether the petitioner is the legally wedded wife of respondent no.1, and the petitioners 2 and 3 who are born out of their wedlock are entitled for the following reliefs.
 - a) protection order from the Respondents 1 to 7 U/s.18 of the protection of women from Domestic violence act,2005.
 - b) compensation of Rs.20,00,000-00 from R1 to R3 u/s.22 of the protection of women from Domestic violence act,2005 towards compensation for mental torture and harassment.

- c) the relief that to directing the respondents 1 to 7 grant of maintenance of Rs.30,000-00 PM to the petitioner no.1, and Rs.15,000/- towards her children for medical, education and residence, the total amount of Rs.45,000/- per month from the Respondent No.1 U/s.20 (d) of the protection of Women from Domestic Violence Act,2005.
- ii) To what finding?

Before going to the facts of the case, it is pertinent to note that the protection of women from Domestic Violence Act, 2005 is to provide more effective protection of the rights of women guaranteed under the constitution who are the victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto.

8. Point No.(i):-

Whether the petitioner is the legally wedded wife of respondent no.1, and the petitioners 2 and 3 who are born out of their wedlock are entitled for the following reliefs mentioned above (a to c)?

The petitioner no.1 examined herself as PW.1 in her chief examination, she has reiterated her case as mentioned in the complaint, which discloses that the petitioner No.1 is legally wedded wife of the respondent No.1 and their marriage was love cum inter caste marriage which was performed at Seetaramachandra Swamy temple at Sirusanagandla village, Vangoor Mandal. After their marriage the petitioner no.1 gave birth to petitioner no.2 on 17-02-2017 and petitioner no.3 on 04-10-2018. At the time of the marriage the petitioner

arranged 6 tulas of gold ornaments and 50 tulas of silver ornaments and Rs.2,00,000/- to the respondents 2 and 3 and the same was arranged by the petitioner with her own earnings as a daily Labour work. The parents of the petitioner are against to their marriage, therefore, there are no good terms between the petitioner and her parents. Thereafter, the respondents 1 to 3 take back the gold and silver ornaments from the petitioner no.1 and did not provide any proper food to her and abused the petitioner in filthy language. After giving birth to the two children the respondent never look after welfare of their children and the petitioner herself by working as a labour and for look after her children. The respondents 4 and 6 warned the petitioner to leave their house, otherwise they kill the petitioner. The respondent no.2 also harassed the petitioner in several ways.

The petitioner further submitted that the respondent suspected the corrector of petitioner no.1 and abused her in filthy language and the respondents 2 to 7 are also harassed the petitioner on several occasions and brutally injured the petitioner. The respondent no.1 without looking after the welfare of the petitioners at any point of time. The respondent having Ac.7-00 agricultural land which is an ancestral property and the respondent no.1 having sufficient means to provide maintenance to the petitioners intending to settle the matter. The petitioner several times approached the police Vangoor and Kalwakurthy by lodging several complaint,

but the respondents stated before the police that they intending the settled the matter and later continued the same harassment.

On perusal of entire record, the major question raised before the court that, whether the petitioner no.1 is the legally wedded wife of respondent no.1 and shared the domestic relation with the respondents at any point of time after the marriage of petitioner No.1 with respondent no.1. The petitioner no.1 stated that, she got married with respondent on 26-12-2012 at Seetharamachandra Swamy temple at Sirusanagandla village of Vangoor Mandal. In order to establish the marriage of the petitioner no.1 with the respondent no.1, marked Ex.P1 i.e. the Receipt of marriage dated 26-12-2012, issued by Seetharamachandra Swamy temple and the Ex.P2 i.e. the photograph which was allegedly taken by the petitioner no.1 with the respondent no.1 and his parents.

The Ex.P1 which is the receipt issued by the concerned temple having the marriage date as 26-12-2012 but none of the persons who has issued the Ex.P1 did not examined as a witness before the court. Likewise the Ex.P2 is also cannot be taken into consideration as none of the respondents appeared before the court. Moreover, the petitioner specified in her petition that they got married on 26-12-2012 in the presence of well-wishers and friends but none

of them were examined as witness on behalf of the petitioner no.1. The version of the petitioner with regard to the marriage with the respondent no.1 itself creates lot of suspicion, due to the following reasons.

- (i) the petitioner no.1 neither submit marriage card or a marriage photograph or adduced evidence through any person as a witness who have attended their marriage.
- (ii) Nowhere in the petition or in the chief examination there is no mention that at which place, the petitioner no.1 joined the society of respondent no.1.
- (iii) the petitioner stated that at the time of the marriage she arranged 6 tulas of gold ornaments, 50 grams of silver ornaments and Rs.2,00,000/- to the petitioner no.1 for which she worked as a daily labour and accumulated the said articles with her own earnings, but there is no proof to that extent either in oral or documentary found.
- (iv) in the entire petition and in the chief affidavit the petitioner stated that as she was unable to bare the harassment of respondents approached the concern police on several occasions by filing complaint, but there is no proof to that extent.
- (v) at one point in the petition the petitioner no.1 stated that she was brutally injured by the respondents, but

no piece of paper furnish before this court to that extent.

(vi) the petitioner did not furnish any particulars of the profession of the respondent no.1.

The said grounds all together establishes that the petitioner no.1 utterly failed to establish before the court that, she is legally wedded wife of respondent no.1 and the petitioners 2 and 3 were born out of the wedlock with the respondent no.1 and also failed to establish that she has shared domestic relation with the respondents at any point of time after her marriage with respondent no.1. In the absence of any evidence, that the petitioner no.1 shared domestic relation with the respondents, there is no scope for looking into the merits in the version of the petitioners. Moreover, after receiving the chief evidence of Pw.1, this court provided an opportunity to the petitioner No.1 to produce any other evidence to strengthen her case, but the petitioner failed to furnish any evidence on her behalf.

Therefore, the petitioner failed to establish the very solemnization of the marriage of petitioner no.1 and respondent no.1 and also failed to establish that the petitioners shared domestic relation with the respondents and the petitioner No.1 subjected to domestic violence in the hands of respondents 1 to 7.

In view of the failure of the petitioner no.1 to establish the marital relationship with the respondent no.1 and also failed to establish that the petitioners 2 and 3 are the children of petitioner no.1 and respondent no.1, this court is not inclined to grant any reliefs as prayed by the petitioners. Thus the point is answered against to the petitioners.

9. **Point No.(ii):-** To what finding

In view of the discussion made under point no.1, the point is answered against to the petitioners.

In the result, the petition is dismissed without costs.

Typed to my dictation to the Stenographer directly on my laptop, corrected and pronounced by me in the court on this the 4th day of April, 2022.

I-Addl. Judl., Magistrate of First Class
Kalwakurthy.

**APPENDIX OF EVIDENCE
(WITNESS EXAMINED)**

For Petitioners:-

PW.1 Mallepogula Sindhuja,

For Respondents:

-None -

EXHIBITS MARKED

For Petitioners:

Ex.P1 Copy of receipt of marriage at Sirisanagandla Temple

Ex.P2 Copy of photo

For Respondents:

- Nil -

I-Addl. Judl., Magistrate of First Class
Kalwakurthy.