

IN THE COURT OF JUDICIAL MAGISTRATE AT KATPADI

VELLORE DISTRICT

PRESENT: Thiru.S.K.P.Dilip Babu,M.A., M.L.,

JUDICIAL MAGISTRATE

On Friday, this the 06th day of March 2026

DVC No.09/2023

TNVL24-003656-2023

Asha D/o Jeyakumar
No.36. Mounaguru Koil,
Chenguttai. Dharapadavedu,
Katpadi, Vellore.

... Petitioner

-Versus-

Arul S/o Sundram
No.40, GST Road,
Irumbuliyur, West Tambaram
Kanchipuram District

... Respondent

ORDER

1. This petition is filed by the petitioner under Section 12(4) and 12(5) of the Protection of Women from Domestic Violence Act, 2005 seeking compensation and further relief from the respondent, her husband.

2. The petitioner submits that the marriage between the petitioner and respondent was solemnized on 31.08.2006 as a arranged marriage and out of the said marriage one male

child was born on 15.10.2007. Further, the respondent assaulted the respondent on many occasions and the respondent is not interested to live with the petitioner and the respondent did not allow the petitioner to talk with her mother and to go to any job. It is the further case of the petitioner that since the respondent deserted the petitioner, lodged complaint before All Women Police Station the petitioner is living with her mother's home. Much effort has been taken, but there is no possibility of reunion and the petitioner filed divorced petition and the Hon'ble Family Court, Vellore granted divorce decree in OP No. 379/2021.

3. The further case of the petitioner is that on 03.05.2023 the respondent and his two brothers sold the property belong to the son of the respondent and taken away the sale proceeds of RS.80,00,000/- for himself apart from a sum of Rs. 35,00,000 given by the Government for the purpose of expansion of road, thus totaling in all a sum of Rs.1,15,00,000/- out of which no amount has been given either to the petitioner herein or his son. Hence, the petitioner filed the above petition seeking several other reliefs.

4. In response, the respondent denied the allegations, contending that the petitioner has suppressed material facts and approached with unclean hands. The Respondent is a Lorry driver and the petitioner have not done the duty of the wife and the child was taken care by the respondent mother. The petitioner in the year of 2010 left the matrimonial home without any reasonable cause and not living with the respondent till now. Further, the petitioner has not allowed to see the child till date and the petitioner is self-employed and doing beautician work. The petitioner also forced the respondent to give divorce immediately. It is further stated that no property was registered in the name

of the son of the respondent Vetrivel and therefore the respondent prayed to dismiss the petition.

5. The petitioner was examined as PW1 and Ex.P1 to P11 have been marked. The Respondent was examined as RW1 and no documents have been marked. Heard both sides. Records perused.

6. On careful consideration of the rival contentions and the available materials on record, it is evident that the marital relationship between the parties is not denied. The factum of marriage and child namely Vetrivel stands admitted. The factum of divorce decree obtained before the Hon'ble Family Court, Vellore petitioner in OP No. 379/2021 also has been admitted by both the parties. This Court on earlier occasion had found that the above petition is not barred under limitation in Cr.M.P. No. 4337/2023.

7. The Hon'ble Supreme Court of India in Juveria Abdul Majid Patni vs Atif Iqbal Mansoori And Anr has held that subsequent decree of divorce will not absolve the liability of the respondent from the offence committed or to deny the benefit to which aggrieved person is entitled under the Domestic Violence Act.

8. The petitioner has admitted in her petition and she left matrimonial home and living in her mothers home for past 12 years. In the cross-examination of the petitioner she had admitted the same and further stated that in during 2018 she voluntarily came to the petitioner home and was living separately in the terrace but since the respondent refused to join petitioner she again left the home during 2019. From the statement of the

petitioner it is evident that they were not living in the same roof for past 13 years. Further the divorce was granted by Hon'ble Family Court, Vellore on 15.11.2022.

9. The petitioner in her petition has alleged that the Respondent along with his brother has sold property on 03.05.2023 belonging to son of respondent. The above petition was filed on 30.05.2023 within a month of registration of sale deed. As on date of filing the both parties are declared as divorced by competent Court. Hence a doubt arises in the mind of the Court with regard to the intention of filing the above petition. On perusal of the sale deed Ex. P. 11 it is seen that the respondent along with his brother have executed sale deed owned by them. No where it is seen that the document was owned by the son of petitioner namely Vetrivel. Even assuming the respondent has executed sale deed belonging to his son the same has to be challenged in the civil proceeding and the DV act cannot be invoked for land dispute.

10. The petitioner has sought the relief of compensation of Rs. 40,00,000/-, the amount as admitted by the petitioner in her petition stating that Rs. 35,00,000/- was received by the respondent. On the facts and circumstance of the case it is clear that the petitioner has claimed the compensation amount being the funds acquired from execution of sale deed in Ex.P.11 and also the fact that the above petition was filed within a month of execution of sale deed Ex.P.11 even though divorce decree was granted much earlier.

11. The Hon'ble Delhi High Court in RSA 14/2021 & CM APPLs. 3964/2021, 3966/2021, 21708/2021 dated 09.08.2021 has held as:

“While the DV Act is a social welfare legislation granting protection to women who are victims of domestic violence, every dispute amongst family members cannot be converted into a dispute under the DV Act. The same ought not to be allowed to happen, as it may cause unintended misuse of the provisions of the said Act creating turmoil within families, especially when there is no matrimonial dispute whatsoever between husband and the wife, i.e., son and daughter-in-law. The provisions of the DV Act cannot be used as a ploy by the son, to either claim a right in his father’s property or continue to retain possession of the father’s property, on the strength of his wife’s right of residence. A civil dispute relating to ownership of property cannot be converted, in this manner, into a case under the DV Act, as the same would amount to be an abuse of the beneficial provisions of the DV Act, by stretching it over and beyond its purpose and ambit. “

12. The Hon’ble High Court has held that the provisions of Domestic Violence Act, being a social welfare legislation, cannot be used by a son as a ploy to either claim a right in his father's property or to retain possession of the same on the strength of his wife's right of residence.

13. The Hon’ble Madras High Court in B. Sakunthala Vs. Vasnatha in CrI.O.P.(MD) No.8503 of 2016 and CrI.M.P.(MD) Nos.4117 and 4118 of 2016 has held that the remedy is only to file a civil suit for declaration of her rights and there cannot be a complaint under the Domestic Violence Act, when the petitioner, herein, has resorted to legal remedy. If the legal remedy sought for is branded as domestic violence, then it is a case of abuse of process of law. Therefore, the complaint is liable to be quashed and it is quashed accordingly. The relevant para is extracted hereunder:

“5. From the perusal of the contentions and documents, it is evident that if at all, the respondent claims the right over the property in the capacity as wife of the deceased husband, the remedy is only to file a Civil Suit for declaration of her rights and there cannot be a complaint under Domestic Violence Act, when the petitioner herein has resorted to legal remedy. If the legal remedy sought for is branded as domestic violence, then it is a case of abuse of process of law. Therefore, the complaint is liable to be quashed and it is quashed accordingly.”

13. This Court in the light of the discussions above and the from the Judgments of Hon’ble High Courts holds that only competent Courts has to be approached for civil rights and not to approach this forum. Hence, the claim of the petitioner with regard to compensation is rejected.

14. The petitioner’s claim of returning her belonging namely cell phone and camera lens was not denied by the respondent either in his pleadings or evidence. In the absence of any denial from the respondent the petitioner is entitled to the above relief.

15. With regard to the relief of maintenance both parties have admitted that respondent is a lorry driver. The assets and liabilities of the respondent states that his monthly salary is 12,000/-

16. In this regard, it is pertinent to refer to the Judgment of the Honorable Andhra Pradesh High Court in L. Srinivasulu Reddy vs L. Ramalakshamma And Anr. on 8 April 1996, 1996(2) ALD(CRI) 90. It was held in this case that *"the wife is entitled to*

maintenance even though she has been divorced by her husband, as long as she remains unmarried, and she is not in a position to maintain herself, and in spite of her request, her husband has refused to maintain her or neglected her."

Therefore, this court rules that the respondent is obligated to maintain the petitioners. Consequently, this petition is partly allowed. After considering the assets and liabilities of both parties, their respective financial positions, and the impact of rising prices, the court issues the following directions:

1. The respondent is ordered to pay Rs. 5000/- per month from the date of filing of this petition.
2. The aforementioned amount of Rs. 5,000/- should be remitted to the petitioner on or before the 5th day of each month.
3. The respondent is directed to return the belonging namely cell phone and camera lens to the petitioner.

This order is pronounced by me in open court on this 06th day of March 2026.

Judicial Magistrate,
Katpadi.

Appendix:

List of Prosecution side Petitioner:-

PW-1 Asha

Dw-1 Arul

List of Prosecution side documents :-

Ex.P-1 Settlement Deed (Doc.No. 6280/2004)

Ex.P-2 Aadhar Card of the Applicant

Ex.P-3 Ration Card of the Respondent

Ex.P-4 Birth Certificate of Vetrivel

Ex.P-5 Aadhar Card of Vetrivel

Ex.P-6 School ID Card of Vetrivel

Ex.P-7 Aadhar Card of the Respondent

Ex.P-8 CSR Copy 366/2010

Ex.P-9 Divorce Petition

Ex.P-10 Decretal Order Copy

Ex.P-11 Sale Deed (Doc.No.3658/2023)

List of Accused side Documents and witnesses : NIL.

Judicial Magistrate,
Katpadi.