

IN THE COURT OF THE ADDITIONAL JUDICIAL MAGISTRATE OF 1ST
CLASS MIRYALAGUDA

Monday, this the 10th day of April, 2017

PRESENT:- Sri A. Nagaraju,
Addl. Judl. Magistrate of 1st Class,
Miryalaguda

DVC.No. 1 of 2016

Between :

Vallepu Yellamma W/o Srinu, Age:35 years, Occ: Housewife, R/o
Camping road, Mirchi Centre, Khammam District. Presently residing
at H.No.122, Sundernagar Colony, Miryalaguda Town and Mandal,
Nalgonda District.

... Petitioner/Aggrieved person

And

1. Vallepu Srinu S/o Veeraiah, Age:37 years, Occ: Coolie,
 2. Vallepu Badramma W/o Veeraiah, Age:55 years, Occ: Coolie,
 3. Vallepu Kotesesh S/o Veeraiah, Age:35 years, Occ: Coolie,
- All are R/o Camping road, Mirchi Centre, Khammam District.

... Respondents

This petition is coming up for final hearing before me on 06.03.2017 in the presence of Sri Ch. Raghu Rama Rao, Advocate for Petitioner and respondents set exparte, upon hearing both sides and upon perusing the material papers available on record, and the matter having stood over for consideration till this day this court delivered the following:

:: ORDER ::

1. This is a petition filed by the aggrieved person under Sec.12 of Domestic Violence Act, 2005 against the respondents Nos.1 to 3 for grant of reliefs under Secs.18 to 20 & 22 of Protection of Women from Domestic Violence Act, 2005.

2. The brief case of the petitioner is that her marriage was performed with R.1 about 9 years ago. During wedlock, she gave birth to a son and daughter and they lived happily for a period of four years. Thereafter, R.1 started consuming alcohol and used to harass her to bring additional dowry. R.1 also used to go his parents house at Khammam and stay there for four to five days, when she questioned about his attitude, he used to threaten her stating that he contacted second marriage. Though the elders mediated so many times, he did

not hear their words and used to abuse and beat her, as such she came to her parents house. Some days thereafter, she came to know that R.1 contacted second marriage. On that, five days before Deepavali festival she went to R.1 at Khammam and requested him to come along with her, on that he stated that he contacted second marriage. Then, R.1 to R.3 beat her indiscriminately and sent her out. When her parents questioned, the respondents asked them to do whatever they want to do. Respondents also blamed her that her daughter was not born through R.1. Hence, she requested to provide alternative accommodation, maintenance @ Rs.3000/- per month and also grant of compensation of Rs.5,00,000/- for causing domestic violence.

3. Notices against R.1 to R.3 were served, but they did not appear, as such they were set exparte.

4. In support of her case, the aggrieved person examined herself as PW.1 and exhibited no documents.

5. Heard the arguments.

6. Now the point for consideration is:

“Whether any domestic violence is casued against the aggrieved person by the respondents? If so whether the aggrieved person is entitled for the reliefs as prayed for ” ?

7. P O I N T:-

The aggrieved person present before the court as PW.1 reiterating the contents of complaint. She deposed that at the time of marriage, her parents presented Rs.50,000/- cash. She further deposed that she also filed a complaint before the Women Police Station, Nalgonda vide Cr.No.49/2013 for the offence under Sec.498-A IPC. As seen from the contents of main complaint, she made all allegations against R.1 only, but not against any other respondents. As per her complaint and her evidence when she went to R.1 to bring him before Deepavali festival, the other respondents beat her and did not allow her into the company of R.1. Though according to her, R.1 said to have contacted second marriage, she did not give any details of name of second wife and other particulars. From the contents of

complaint, it appears that as R.1 neglected her and her children to maintain, she filed the present DVC. The evidence of PW.1 is not challenged by the respondents as they remained *ex parte*. Just because the evidence is not challenged, the evidence of PW.1 cannot be believed *intoto* with regard to the allegations and reliefs sought for by her against R.2 to R.5. As per the contents of complaint and her evidence, except the grievance against R.1, it appears that she has no grievance against R.2 & R.3, but only to add them in the complaint, she gave an incident where R.2 & R.3 beat her. Further except examining herself as PW.1, she did not examine any other witness and not even her mother. Though her mother was present at the time of alleged beating. Hence, I feel that the complaint against R.2 & R.3 is to be dismissed.

8. So far as the allegations against R.1, as discussed above though she contended that R.1 contracted second marriage, she did not give any particulars. According to her, R.1 used to consume liquor and beat her. He is also in the habit of leaving the company of petitioner without any reason, hence it appears that he neglected the petitioner and her children to maintain them.

9. In order to prove the earning capacity or profession of R.1, she stated that he is having immovable properties at Khammam and getting Rs.20,000/- income per month, she has not filed any documents to show that R.1 is having properties and getting such income. As per the particulars given in the complaint R.1 is aged about 37 years, as such it can be said that he is young, able bodied and can earn. Now a days, even a labour can earn Rs.400/- to Rs.500/- per day and monthly income of Rs.12,000/- to Rs.15,000/-. Since R.1 neglected to maintain the petitioner and her children, I feel that she is certainly entitled for maintenance and also for alternative accommodation.

10. In view of the above assessment of earning capacity of R.1, I feel an amount of Rs.1500/- per month each to the petitioner and her children towards maintenance and Rs.1000/- per month towards alternative accommodation would be sufficient. Accordingly, the same is granted.

11. Since R.1 neglected the petitioner and her children though he is duty bound to maintain them and beat the petitioner without any reason and left her company even prior to filing of complaint and deprived her from legitimate conjugal happiness. Hence, I find that R.1 put the petitioner and her children to domestic violence, as such they are entitled for the protection under Sec.18 of the Act and also entitled for compensation of Rs.1,00,000/- for causing such domestic violence.

12. In the result, the petition is allowed in part against R.1 as under:

- (i) R.1 is directed not to commit any domestic violence against the petitioner and her children.
- (ii) R.1 is directed to pay an amount of Rs.1500/- each per month to the petitioner and her children towards maintenance.
- (iii) R.1 is directed to pay an amount of Rs.1000/- per month to the petitioner towards alternative accommodation.
- (iv) R.1 is also directed to pay compensation of Rs.1,00,000/- to the petitioner for causing domestic violence against the petitioner and her children.
- (v) R.1 directed to pay amounts immediately and pay the maintenance amount on or before 10th of every succeeding month.
- (vi) The petition against R.2 & R.3 is dismissed.

Dictated to Personal Assistant, transcribed by her, corrected and pronounced by me in the open court on this the 10th day of April, 2017.

Sd/-
Addl. Judicial Magistrate of First Class,
Miryalaguda.

Appendix of Evidence
Witnesses examined

For petitioner:-

P.W.1 Vallapu Yallamma

For Respondents:-

NONE

Exhibits marked for both sides
-Nil-

Sd/-
Addl. Judicial Magistrate of First Class,
Miryalaguda.

Copy to:

1. The aggrieved person through her counsel.
2. The respondents through their counsel.
3. The Station House officer concerned.
4. The Project Director and Ex-officio Protection Officer under Domestic Violence Act, 2005 Nalgonda with a direction to implement the orders.

// True Copy //

Addl. Judicial Magistrate of First Class,
Miryalaguda.