

DISTRICT: MORIGAON

IN THE COURT OF ADDL. CHIEF JUDL.MAGISTRATE,

MORIGAON:.....ASSAM.

CR(DV) Case No. 222 of 2018

U/S 12 of Protection of Women From Domestic Violence Act,2005

MUSSTT. MOMTAZ KHATUN

----- Aggrieved person

VERSES

(1) MD. MOHAR UDDIN.

(2) MD. TUTA MIYA.

(3) MUSSTT. SAMSUN NEHAR.

(4) MUSSTT. MURSHIDA KHATUN.

(5) MUSSTT. RASIDA KHATUN

-----Respondents.

Present : Smti. S. Acharyya, AJS,  
Addl. Chief Judicial Magistrate,  
Morigaon.

For the Aggrieved woman : - Mr. H. Rahman, Md. O. Faruk, Advocates.

For the Respondents :- Mr. U. C. Roy, Mrs. J. Moni Deka, Advocates.

Date of argument :- 30.10.2019.

Date of Final Order : - 13.11.2019.

FINAL ORDER

**1.** The instant proceeding has been initiated by an application filed by the aggrieved person under section 12 of the Protection of Woman from Domestic Violence Act,2005 against her husband and his family members seeking relief under section 18, 19, 20, 22 and 23 of the said Act.

**2.** The Case of the aggrieved person in brief is that respondent No.1 is her husband and other respondents are family members of her husband. That she got married with respondent No.1 Md. Mohar Uddin on 21.03.2018 as

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per Islamic rites and customs . During her marriage, marriage articles and cash amount of Rs. 30,000/- was given to respondent No.1. That after marriage, they used to live as husband and wife. That after few days of her marriage, the respondents started to inflict physical and mental torture upon her demanding sofa-set, furniture and cash amount of Rs. 50,000/-. Ultimately on 28.06.2018, the respondents assaulted her severely demanding cash amount of Rs. 50,000/- and drove her out and kept her ornament. That her father is unable to maintain her. That respondent No.1 is rich person having landed property, cultivation and business and earn Rs. 30,000/- per month. Hence the case.

**3.** On receipt of notice the respondent No.3, 4 & 5 have appeared and submitted WS denying the allegations of torture against them. It is stated in the written statement that after the marriage, aggrieved woman used to raise quarrel pressurizing her husband to stay separately from other family members. That aggrieved woman did not listen to her husband and family members of her husband and used to threaten the respondents. That respondent No.1 is a day labour and he has to look after his aged parents. That on 28.06.2018, the aggrieved woman with the instigation of her family members in absence of the respondent No.1 had taken cash amount of Rs. 10,000/- and ornament and cloths worth of Rs. 30,000/- and fled away from their house voluntarily. The respondents prayed for dismissal of the case.

**4.** The aggrieved person in support of her case examined three witnesses including herself. The respondents did not examine any witness. The parties did not exhibit any document.

**5.** I have heard the argument of the learned counsel for the aggrieved person. The respondents defaulted at the evidence stage. Upon hearing and on perusal of the record I have framed the following points for determination.

**Points for determinations:-**

- (i) Whether the respondents/opposite parties being the husband and family members of the husband of the petitioner/aggrieved person have committed any act of domestic violence upon her?
- (ii) Whether the petitioner/aggrieved is entitled to the relief/reliefs as prayed for against the respondents?

(iii) And to what other relief/reliefs the petitioner/aggrieved is entitled to?

**Discussions, decision and reasons for decision:**

**Decision on Point No. (i)**

**6.** I have perused the evidence on record. The PW1, Musstt. Momtaz Khatun, who is the aggrieved in her evidence on affidavit repeated her version as stated in the complaint. She inter alia deposed that she got married to respondent No.1 on 21.03.2018 as per Islamic rites and customs. That during her marriage, marriage articles and Rs. 30,000/- were given to her husband. That after her marriage, respondents started to torture her demanding more dowry articles and cash amount of Rs. 50,000/- and ultimately on 28.06.2018 she was assaulted and driven out from her matrimonial house and since then she has been taking shelter at her parental house. That her father is unable to maintain her. PW2, Md. Askar Ali and PW3, Md. Hajarat Ali, in their evidence on affidavit totally supported the evidence of PW1 by stating that since after the marriage, respondents used to inflict torture upon her demanding dowry and on 28.06.2018 the respondents assaulted the aggrieved woman and drove her out from her matrimonial house. They further stated that respondent No.1 is rich person having business and landed property and earns Rs. 30000/- per month.

**7.** From the evidence of PW-1, PW-2 and PW-3 it reveals that aggrieved person got married with the respondent No.1 and aggrieved had faced torture at her matrimonial home at the hand of respondents for dowry and ultimately she was driven out of her matrimonial home. PW-1, PW-2 and PW-3 have not been cross-examined by the respondent side. Their evidence remains unrebutted as they are not cross examined by the Respondents. The respondents No. 3, 4 and 5 did not adduce evidence in support of their allegation in the written statement. The respondent No.1 did not file written statement. Domestic Incident Report was called for and same has been received. Domestic Incident Report also discloses physical and mental violence upon the aggrieved woman by the respondents. From the evidence of PW-1, PW-2 and PW-3 and Domestic Incident Report I am of the considered opinion

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that respondents being the husband and family members of the husband of aggrieved had subjected the aggrieved person to domestic violence within the meaning of section 3 of protection of Women from Domestic Violence Act, 2005. This point is decided accordingly.

**Decision on Point No. ii and iii**

**8.** The aggrieved person has prayed for protection order under section 18, residence order under section 19, monetary relief under section 20 and compensation under section 22 of the Protection of Women from Domestic Violence Act, 2005.

**9.** Considering that the aggrieved person has proved that respondents have committed act of domestic violence upon her, I hereby held that aggrieved person is entitled to protection order under section 18, residence order under section 19 and monetary relief under section 20 and compensation order under section 22 of Protection of Women from Domestic Violence Act, 2005.

**10.** It is already held that the aggrieved person is entitled to monetary relief from the respondent No.1. It reveals from the evidence of the aggrieved side that the Respondents are rich persons having landed property and business and earn Rs. 30,000/- per month. The aggrieved person is an unemployed lady and she has to look after herself. Considering every aspects, I am of the view that in the event of directing the respondent No.1 for payment of Rs. 3000/- (rupees three thousand) per month for the aggrieved as maintenance same would be befitting to the facts and circumstances of the case and would also meet the ends of justice.

**11.** From the case record it appears that due to act of the respondents she sustained physical and mental torture and emotional distress. Hence, respondent No. 1 is directed to pay an amount of Rs. 30,000/- as compensation to the aggrieved.

**12.** These points are decided accordingly.

**Order**

- 13.** The respondents are hereby restrained from committing any act of domestic violence upon the aggrieved person.
- 14.** The respondent No.1 is directed to provide alternative accommodation for the petitioner/aggrieved person or to arrange for a rented house for her, rent for which shall be paid by him and such arrangement shall be made within the period of three months from the date of this order.
- 15.** The respondent No.1 is also directed to pay Rs. 3000/- (rupees three thousand) only per month as maintenance to the aggrieved person.
- 16.** The respondent No. 1 is also directed to pay an amount of Rs.30,000/- as compensation to the aggrieved which shall be paid by him within the period of three months from the date of this order.
- 17.** With this the instant case is disposed of on contest without cost.
- 18.** Furnish a copy of this order to both the parties.
- 19.** Send a copy of this order to the Officer in charge of the concerned police station and concerned Protection Officer for perusal and necessary action, if any required.
- 20.** Given under my hand and seal of this Court today, the 13<sup>th</sup> day of November, 2019.

S. ACHARYYA  
Addl Chief Judicial Magistrate  
Morigaon.

S. ACHARYYA  
Addl Chief Judicial Magistrate  
Morigaon.

Dictation taken and  
transcribed by me.

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**APPENDIX**

Aggrieved person's exhibits:

NIL.

Respondents' exhibit:

NIL.

Aggrieved person's witness:

PW1- Musst. Momtaz Khatun.

PW2- Md. Askar Ali.

PW3- Md. Hajarat Ali.

Respondent's witness:

NIL

Dictated and corrected  
by me.

S. ACHARYYA  
Addl Chief Judicial Magistrate  
Morigaon.

S. ACHARYYA  
Addl Chief Judicial Magistrate  
Morigaon.

Dictation taken and  
transcribed be me.

Computer Typist.