

DISTRICT: MORIGAON

IN THE COURT OF ADDL. CHIEF JUDL.MAGISTRATE,

MORIGAON::::::::::ASSAM.

CR(DV) Case No. 429 of 2018

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

MUSSTT. SAMSUN NAHAR

----- Aggrieved person

VERSES

(1) MD. BAKIR HUSSAIN.

(2) MD. ABU BAKKAR SIDDIQUE.

(3) MD. JAKIR HUSSAIN.

(4) MUSSTT. RABIA KHATUN.

-----Respondents.

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

For the Aggrieved woman : - Mrs. M. Begum, Advocate.

For the Respondents :- None.

Date of argument :- 07.06.2019.

Date of Final Order : - 21.06.2019.

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(a) of the said Act.

Contd.....2/-

**2.** The Case of the aggrieved person in brief is that she got married with respondent No.1 Bakir Hussain on 11.03.2016 socially. That after one year of marriage respondents demanded Rs. 20,000/-, which she paid from her parents. After a few days, the respondents again demanded Rs. 30,000/-, which she again paid from her parents to her husband. In the mean time, she became pregnant and she had stomach-pain. That then Respondent No.1 gave her a tablet and after consuming the tablet, she had bleeding. That then respondent No. 4 had taken her to Dagaon Health Centre and abortion was done without her knowledge. She was taken to her parental home considering her health condition. After recovery of her health, she came back to her matrimonial home. But her in laws sent her husband at Kerela and demanded Rs.100000/- from her and she was tortured physically and mentally by her mother-in-law and father-in-law. Her husband also asked her to bring money. That she came back to her parental home. Her husband married again from Darrang. On getting information, she went to her husband's home, but she was driven out after being assaulted and abused. Regarding the incident she filed a case at Juria PS bearing Juria PS Case No-420/18 U/S 498(A) IPC. That since then she has been staying at her parents' house. That her husband did not provide any maintenance to her. That Respondent No.1 is a rich person having fish-business and he earns about Rs. 60/70 thousand per month. Hence the case.

**3.** In this case the respondents have not appeared on receipt of summons and the case is proceeding exparte against them.

**4.** The aggrieved person in support of her case examined two witnesses including herself. She did not exhibit any document.

**5.** I have heard the argument of the learned counsel for the aggrieved person. 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? and

(iii) 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. Samsun Nahar who is the aggrieved in her evidence on affidavit repeated her version as stated in the complaint. She inter alia deposed that she was married to respondent No.1 at about 3/4 years back. That after one year on being asked by the respondents she paid Rs. 20,000/- to them. That they again demanded Rs. 30,000/- from her. Thereafter, she became pregnant and respondents forcefully consumed her medicine and aborted her child. That she came to her parents' house for treatment and after recovery she returned to her matrimonial home. That her in-laws sent her husband to Kerela and kept her separated from her husband. That ultimately she came back to her parents' house and respondent No.1 married for second time. On getting information of second marriage of her husband, she went to her matrimonial home along with 2/3 other persons, but she was abused and not allowed to enter in her matrimonial home and therefore she lodged a case at Juria PS bearing Juria PS Case No. 420/2018 u/s 498(A) of IPC. That respondents are rich, having landed properties and fish business and earning Rs. 60/70 thousands per month. PW2, Md. Mubarak Hussain, who is the uncle of PW1 in his evidence on affidavit totally supported the evidence of PW1 by saying that respondents used to inflict torture upon her demanding money from her and her husband was sent to kerela and finally she was driven out of her matrimonial home and her husband married for the second time.

**7.** From the evidence of Pw-1 and Pw-2 it reveals that aggrieved person got married with the respondent No.1 and aggrieved had faced torture

Contd.....4/-

at her matrimonial home at the hand of respondents for dowry and ultimately she was driven out of her matrimonial home and her husband married for the second time. Pw-1 and Pw-2 have not been cross-examined by the respondents side. Their evidence remain unrebutted as they are not cross examined by the Respondents. 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 and Pw-2 and Domestic Incident Report I am of the considered opinion 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 and 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 respondentNo.1. The aggrieved person in her complaint petition stated that the Respondent No.1 has fish-business and he is a healthy man and he earns about Rs. 60/70 thousand per month. The aggrieved person is an unemployed lady. Considering every aspects, I am of the view that in the event of directing the respondent No.1 for payment of total Rs. 5000/- (rupees five thousand) per month as maintenance to the aggrieved person 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. 50,000/- 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. 5000/- (rupees five thousand) only per month as maintenance to the aggrieved person.

**16.** The respondent No. 1 is also directed to pay an amount of Rs.50,000/- 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 21<sup>st</sup> day of June, 2019.

S. ACHARYYA  
Addl Chief Judicial Magistrate  
Morigaon.

S. ACHARYYA  
Addl Chief Judicial Magistrate  
Morigaon.

Dictation taken and  
transcribed by me.

Computer Typist.

**APPENDIX**

Aggrieved person's exhibits:

NIL.

Respondents' exhibit:

NIL.

Aggrieved person's witness:

PW1- Musstt. Samsun Nahar.

PW2- Md. Mubarak Hussain.

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.