

PWDV 36/18
AGGRIEVED PERSON : KOMELA KHATUN
RESPONDENTS : ANISUR RAHMAN & OTHERS

IN THE COURT OF THE JUDICIAL MAGISTRATE FIRST CLASS,
GOALPARA

P.W. D.V. Case No. 36/18
Under section 12 of the P.W.D.V. Act, 2005.

Komela Khatun
... Petitioner/Aggrieved Party

v.

1. Anisur Rahman
2. Forida Khatun
3. Azitulla Sheikh
4. Monowara Khatun
5. Muklesur Rahman
6. Nur Hussain
7. Sobura Khatun

... Respondents.

PRESENT: POOJA DEVI, AJS,
JUDICIAL MAGISTRATE FIRST CLASS, Goalpara.

For the Petitioner/Aggrieved Party: Mr. Ziaur Rahman Mallik, Advocate.

For the Respondent: Mr. Rofiqul Islam, Advocate.

Evidences adduced on: 01/11/2018

Arguments heard on: 07/05/2019

Judgment delivered on: 01/06/2019

JUDGMENT

1. The aggrieved person Komela Khatun filed the instant case under section 12 of the Protection of Women from Domestic Violence Act, 2005 against her husband Anisur Rahman and the other family members of her husband.

2. The petitioner's case in brief as stated in the petition is that the aggrieved person got married to the respondent No.1 on 03/10/2013 according to Muslim rites and customs and thereafter, started living their conjugal life and that one child named Rakib Hussain was also born to them. It has been further stated by the aggrieved person that after their marriage, the respondents used to torture her mentally and physically as well thereby demanding Rs. 1 lakh from her. The petitioner further contended that when she failed to meet with the demand of the respondents, their cruelty against her increased and that respondent No.1 even threatened her that he will divorce her and marry another woman. It has been contended that during the subsistence of their marriage, the respondent No.1 again married another woman who is arrayed as respondent No.2 in the instant case. The petitioner further stated that the respondent No.1 is a farmer and he carries on other business as well and that his monthly income is about Rs. 30,000/-. The petitioner further stated that she, on the other hand has got no source for her livelihood and is totally dependent on her father and further that she is suffering from acute financial crisis. The petitioner further stated on 10/02/2018 all the respondents assaulted her badly thereby demanding money from her and this led the petitioner to file a case against the respondents under section 498-A/34 IPC with Baguan PS. The petitioner therefore filed the instant case thereby seeking maintenance and other reliefs as well as per the PWDV Act 2005.

3. On receipt of notice issued against the respondents, respondents

although appeared initially, but thereafter they did not turn up and filed WS, as a result of which the case proceeded ex-parte against the respondents.

4. That the petitioner/aggrieved person examined herself in support of her case, whereas the respondents did not adduce any evidence.

5. It is pertinent to mention here that this court had directed the respondent No.1 to pay interim maintenance of Rs. 2,400/- monthly during the pendency of this case, but till date not a single payment has been made by the respondent No.1.

6. I have heard submission forwarded by learned counsel for the petitioner. I have heard the petitioner as well. All though no WS has been filed in the instant case, the following points for determination is framed in order to arrive at a definite conclusion.

7. **Points for determination:-**

- I. Whether the respondents subjected the petitioner to domestic violence as defined under section 3 of the Domestic Violence Act, 2005 ?
- II. Whether the petitioner is entitled to the relief/reliefs as prayed for ?

Decision and Reasons thereof:-

8. **Point No. (I):-** The petitioner examined herself as PW.1. PW.1 Komela Khatun in her evidence deposed that after few months of their marriage all the respondents meted out cruelty against her thereby demanding Rs. 1 lakh from her and further that when she failed to meet with the demands of the respondents, they threatened that the respondent No.1 will divorce her. PW.1 further deposed that her husband again married another woman and thereafter the torture upon her even increase. PW.1 further deposed that, unable to bear the

torture of the respondents, she along with her son started staying with her father, who is also a very poor person. PW.1 further deposed that her husband has got good amount of movable and immovable property and that he earns handsome amount per month.

9. The said PW.1 was not cross-examined by the respondents. Thus, I find that the evidence of PW.1 as regard the fact that the respondents carried on cruelty against her remained un-rebuted. Also considering the fact that the respondents have not contested the case by filing WS neither they have cross-examined the petitioner, I find that there exists nothing on record to disbelief PW.1 or to impeach the credibility of the said witness. Thus, from the above discussion it is proved that the respondents committed the act of domestic violence upon the petitioner within the meaning of section 3 of the PWDV Act 2005 by assaulting the petitioner and further by depriving her economically.

10. **Decision :** The said point is decided in affirmative i.e. the respondents have committed domestic violence as defined under section 3 of the PWDV Act 2005 upon the petitioner.

11. **Point No. (II):** The petitioner has claimed for monetary relief as per section 20 of the Act of 2005 along with other reliefs as well.

12. Considering all aspects, I find that it will be justified to pass an order of maintenance to be paid by the respondent No.1 to the petitioner. It would be pertinent to mention here that vide order dated 20/04/2018 interim maintenance of Rs. 2,400/- was ordered to be paid by the respondent No.1 to the petitioner and her minor son. Considering the fact that the petitioner has proved in the foregoing point regarding the fact that the respondents carried out domestic violence upon her and that she does not have any sufficient means of livelihood, it is held that the petitioner is entitled to monetary relief. Further it is to be ensured that the respondents would not commit any sort of domestic violence upon the aggrieved person or threatened her

in any ways.

13. As regard the monthly income of the respondent No.1, the aggrieved person in her petition stated that respondent No. 1 earns Rs. 30,000/- monthly by way of cultivation and other business as well. As the respondents did not appear and contest the claim of the petitioner, the instant fact concerning monthly income of the respondent No.1 remained un-rebutted.

14. Considering all aspects, I find that the petitioner has to maintain herself and her minor child and also take care of the educational expenses of her minor child, as such I deem it fit and proper to award maintenance of Rs. 3,000/- to be paid to the petitioner and maintenance of Rs. 2,000/- along with other educational expenses to be paid for the maintenance of the minor child. In view of the above, the respondent No.1 is hereby directed to pay maintenance @ Rs. 5,000/- per month to the petitioner who would received the same for herself and her minor son.

ORDER

15. In view of the above discussion made, the respondent No.1 is hereby directed to pay maintenance of Rs. 5,000/- per month to the petitioner within the first week of every month. This order of maintenance would be effective from the month of July, 2019. It is further directed that the respondents would not commit any further act of domestic violence.

16. Furnish free copy of judgment to the petitioner. Also send a copy of judgment and order to the Officer In Charge of Goalpara PS and further the officer in charge is directed to ensure that the petitioner is not subjected to domestic violence and that this order is accordingly complied with. Also send a copy of the judgment and order to the Protection Officer concerned.

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RESPONDENTS : ANISUR RAHMAN & OTHERS

17. Given under my hand and the seal of this court on this the 1st day of June, 2019 at Goalpara.

18. Case is disposed of.

(Pooja Devi)
Judicial Magistrate First Class
Goalpara

ANNEXURE

1. PETITIONER/AGGRIEVED WITNESSES:

P.W.1- Komela Khatun (the petitioner/aggrieved).

2. RESPONDENT'S WITNESSES:

NIL

3. EXHIBITS (BY PETITIONER SIDE):

NIL.

4. EXHIBITS (BY DEFENCE SIDE):

NIL.

(Pooja Devi)
Judicial Magistrate First Class,
Goalpara

Typed by
Rana Dey, Stenographer, Goalpara District Judiciary