

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-I,  
ALUVA**

**Present: Smt.Lathika Mohan, Judicial First Class Magistrate-I**

Dated this the 6<sup>th</sup> day of January, 2024

**M.C. No.58/2023**

Petitioner : Aswathy, aged 22, D/o.Unnikrishnan,  
Perumbillissery house, Thrikkariyoor village,  
Kothamangalam Taluk, now residing at House  
no.360/I, Sheeba Bhavan, Banglamparambu  
road, Patterippuram, Aluva-683101.

(By Adv.K.V. Vipin)

Respondent : Arun, aged 28, S/o.Narayanankutty,  
Kumaramkuzhy veedu, Panayoor P.O.,  
Vaniyamkulam, Palakkad District-678552.

**ORDER**

1. This is a petition filed u/s.12(1) of the Protection of Women from Domestic Violence Act, 2005.

2. The averments of the petitioner are as follows:- The marriage between petitioner and the respondent took place on 02.11.2020 as per Hindu Religious rituals. A child is born in the wedlock. She was studying for B.Pharm at the time of marriage. After the marriage, she lived with the respondent in the matrimonial house. Respondent did not allow her to continue her study after the marriage. After the marriage, the respondent went for job only for two weeks. He never cared to maintain the petitioner and spent his income for his own purposes. After two weeks, he did not go for work and they had to depend upon the parents of the respondent for their day to day needs. Later they shifted to her house. There also the respondent continued his attitude and depended on the father of the petitioner for his daily needs. The father of the

petitioner managed to secure a job for respondent. He worked there for about one year. He was never interested to go for his work and always skipped the work and later he was dismissed from employment. In 2022 February, he went to his house at Palakkad. The relatives of the respondent asked the petitioner to take him back as he was depending on them for his day today needs. Hence the petitioner brought him back to her house after one month. Her father purchased a passenger autorickshaw for him and joined him in a driving school to learn driving. But he was not willing to learn driving. Therefore the autorickshaw was sold at a loss. The respondent did not bear any expenses of the delivery of the child. He sold the gold ornaments of the child and misappropriated the same. The father of the petitioner helped him to start grossary shop. But hi did not carry on the business properly and her father suffered a loss of Rs.30,000/- in the business and the business was closed. He became addicted to alcohol and is not maintaining the petitioner and the child. He abused her physically and mentally, when she asked him to go for work and to maintain cleanliness. The respondent harassed the petitioner both mentally and physically and is committing domestic violence against her and the child. Hence, the petitioner is seeking protection order, an order restraining respondent from entering her house at Aluva (house no.360/I

of Aluva Municipality) and the monthly maintenance of Rs.8,000/- to the petitioner and the child.

3. Respondent was served notice, but he did not enter appearance. Hence he was set exparte. The complainant was examined as PW1. Proof affidavit was filed in lieu of chief examination. Heard learned counsel for the petitioner.

4. The following points arises for consideration:

(1) Whether the petitioner is entitled to an order restraining the respondent from committing domestic violence against the petitioner ?

(2) Whether the petitioner is entitled to an order restraining the respondent from entering into the house bearing no.360/I of Aluva Municipality?

(3) Whether the petitioner is entitled to an order directing the respondent to pay maintenance of Rs.8,000/- to the petitioner per month?

(4) Whether the petitioner is entitled to an order directing the respondent to pay an amount of Rs.5 lakhs as compensation?

5. **Points nos.(1) to (4):** These points are considered together for the sake of convenience. The petitioner and the respondent were living together in the shared household after their marriage and a child was born in the wedlock. The petitioner has filed proof affidavit in tune with her petition and the

harassment faced by the petitioner is deposed clearly. In the absence of any counter objection on the part of the respondent, it can only be assumed that the petitioner faced physical and mental torture from the side of the respondent in the shared household. No other evidence can be demanded in case of torture in a marital relationship. In the absence of any other contentions on the part of the respondent, this court is of the view that the contention of physical and mental harassment committed by the respondent against the petitioner is proved. She is entitled to protection order under the Domestic Violence Act.

6. Admittedly the petitioner is residing in her house and the house number is stated as 360/I of Aluva Municipality. The petitioner has sought for an order restraining the respondent from entering her place of residence. Since the respondent has not contested the matter and has not raised any objection, this court is of the view that the petitioner can be granted the relief sought for with respect to his entrance in her place of residence.
7. From the proof affidavit, itself it is seen that he is depending for others for his day to day means and is not going for any work. The petitioner has not filed assets and liabilities, affidavit also. Hence this court is not inclined to grant maintenance as

prayed for. In the facts and circumstances of the case, the compensation sought for also seems exorbitant. Hence, in the light of the discussions above, this court is inclined to allow the petition in part as follows:

1. Respondent shall not subject the petitioner to any physical or verbal abuse coming within the definition of domestic violence under Protection of Women from Domestic Violence Act, 2005.
2. Respondent shall not enter the house of the petitioner i.e., House bearing no.360/I of Aluva Municipality.

Pronounced by me in open Court this the 6<sup>th</sup> day of January, 2024.

Sd/-  
Judicial First Class Magistrate-I, Aluva

### **APPENDIX**

#### **Witness for the Petitioner**

PW1 (Petitioner) : Aswathy

#### **Exhibits for the side of the Petitioner: NIL**

#### **Witnesses for the Respondent: Nil**

#### **Exhibits for the side of the Respondent: Nil**

Sd/-  
Judicial First Class Magistrate-I, Aluva

//True copy//

Judicial First Class Magistrate-I, Aluva