



Crl.R.P.No.286 of 2018

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2025:KER:36088

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE M.B. SNEHALATHA

FRIDAY, THE 23<sup>RD</sup> DAY OF MAY 2025 / 2ND JYAISHTA, 1947

CRL.REV.PET NO. 286 OF 2018

AGAINST THE JUDGMENT IN Cr1.A NO.183 OF 2015 OF THE  
SESSIONS COURT, PALAKKAD ARISING OUT OF THE JUDGMENT IN MC  
NO.39 OF 2012 OF JUDICIAL MAGISTRATE OF FIRST CLASS -III,  
PALAKKAD

REVISION PETITIONERS/RESPONDENTS/RESPONDENTS:

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BY ADVS.  
SRI.K.I.MAYANKUTTY MATHER  
SRI.P.P.RAMACHANDRAN



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RESPONDENTS/APPELLANT/PETITIONER:

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2 STATE OF KERALA  
REPRESENTED BY PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM

BY ADVS.  
SRI.ABE RAJAN  
SRI.LIJU. M.P  
SRI.SAJAN VARGHEESE K.  
R2 BY SMT.T.V.NEEMA-PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR  
HEARING ON 23.05.2025, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:

**'CR'****M.B.SNEHALATHA, J.****Crl.R.P.No.286 of 2018****Dated this the 23<sup>rd</sup> May 2025****ORDER**

Challenge in this revision petition is to the judgment in Crl.A No.183/2015 of Court of Session, Palakkad. Revision petitioners are the respondents in M.C.No.39/2012 of Judicial First Class Magistrate Court III, Palakkad which was a petition filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short 'DV Act, 2005'). The said M.C was filed by the petitioner contending that respondents 1 to 5 in the M.C who are her in-laws tried to oust her from the shared household and also caused obstruction to her and her children from entering the shared household and their peaceful residence therein.

2. Respondents in M.C resisted the petition contending that there were no acts of domestic violence as alleged; that after the death of her husband, petitioner is residing at her parental house and she never used to visit the matrimonial home



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and therefore, she is not an aggrieved person and there was no domestic relationship as defined under the DV Act, 2005 and she is not entitled to the relief sought under the DV Act.

3. After trial, the learned Magistrate dismissed the M.C. on a finding that the petitioner in M.C failed to prove that there was any domestic relationship between her and the respondents; that she failed to establish that she is an 'aggrieved person' as defined in the DV Act, 2005. Against the order in M.C.No.39/2012, the petitioner preferred appeal as Crl.A No.183/2015 before the Sessions Court, Palakkad. The said appeal was allowed by the learned Sessions Judge and the respondents in M.C were restrained from committing any acts of domestic violence against the petitioner and her children. Respondents in M.C. were also restrained from causing any obstruction to the petitioner and her children from entering the shared household and their peaceful living in the shared household.

4. Revision petitioners/respondents in M.C.No.39/2012 assailed the appellate court judgment on the ground that the petitioner failed to establish the domestic relationship between her and the respondents; that she failed to establish that she is an aggrieved person as defined under the DV



Act, 2005; that the Sessions Court ought to have taken into account the fact that the petitioner owns her own property and after the death of her husband she never lived in her matrimonial home and therefore the Sessions Court went wrong in granting an order under the DV Act against the respondents as there was no domestic relationship between them and the petitioner and there was no domestic violence.

5. Heard both sides.

6. The point for consideration is whether the judgment impugned needs any interference by this Court.

7. Petitioner filed the M.C. under Section 12 of Protection of Women from Domestic Violence Act, 2005 seeking protection order and residence order under the said Act.

8. Before advertng to the question as to whether the petitioner in M.C is entitled to get a protection order and residence order as sought by her, let us have a look at the definition of 'domestic violence', 'aggrieved person', 'shared household' and 'domestic relationship' under the Protection of Women from Domestic Violence Act, 2005.

9. Section 3 of DV Act, 2005 defines 'domestic violence' as:

**"3. Definition of domestic violence.—**For the



purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it—

(a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or

(b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or

(c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or

(d) otherwise injures or causes harm, whether physical or mental, to the aggrieved person.”

10. Section 2(a) of the DV Act defines ‘aggrieved person’, which reads as follows:

“2(a) “aggrieved person” means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;”

11. Section 2(s) of DV Act, defines ‘shared household’, which reads as follows:

“2(s)shared household means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household.”



12. Section 2(f) of the DV Act defines domestic relationship, which reads as follows:

"2(f) "domestic relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family;"

13. The evidence on record would show that petitioner is the wife of deceased Gopi; that after the marriage, she was residing in the shared household. Admittedly, the respondents in M.C are the brother-in-laws, sister-in-laws and mother-in-law of the petitioner. The definite case of the petitioner is that after the death of her husband Gopi, respondents who are her in-laws subjected her to cruelty and attempted to oust her from the shared household which is her matrimonial home and they are causing disturbance to her peaceful residence therein, which compelled her to approach the court seeking reliefs under the DV Act.

14. It is in evidence that petitioner's husband Gopi died on 14.6.2009 and after the death of her husband, respondents in M.C made an attempt to oust her from the shared household and also caused obstruction to her peaceful residence therein.



15. The petitioner is an aggrieved person as defined under Section 2(a) of DV Act and she is in domestic relationship with the respondents as defined in Section 2(f) of the said Act. The house in question is her matrimonial home wherein after her marriage she was residing with her husband and children.

16. The Protection of Women from Domestic Violence Act, 2005 has been enacted to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for the matters connected therewith or incidental thereto. It was enacted by the parliament to give effect to various international conventions.

17. The DV Act 2005 is a significant piece of legislation aimed at providing protection to women from violence within the family. It makes a progressive step towards safeguarding women's rights by recognizing domestic abuse as a violation of fundamental human rights. The Protection of Women from Domestic Violence Act, 2005 is a transformative law that upholds the constitutional promise of equality, dignity and protection for women.

18. The primary object of DV Act is to protect women from domestic violence, which includes physical,





emotional, sexual, verbal and economic abuse. The Act was enacted with the understanding that violence in a domestic setting is not only a private matter but a serious public concern that affects the health, dignity and security of women.

19. The provisions of Act being beneficial and social legislation, the approach of the court always has to uphold the parliamentary intention and give it liberal interpretation rather than avoiding it which would certainly lead to defeating the objectives of the law.

20. One of the most crucial, progressive and empowering features of DV Act is the right to reside in the shared household, irrespective of ownership or title.

21. The DV Act is a landmark legislation aimed at combating the pervasive issue of domestic abuse against women. Section 17 of DV Act provides that every woman in a domestic relationship shall have the right to reside in the shared household, whether or not she has any right, title or beneficial interest in the same.

22. This provision was introduced to prevent a common form of abuse that is, displacement and dispossession of women from her marital home. The right to residence recognise the importance of shelter and security as fundamental to a woman's



dignity. This right is crucial for a woman's safety and dignity ensuring that she is not forcibly removed or homeless due to domestic abuse.

23. While recognising the right to residence in the shared household, the Act affirms a woman's right to shelter and security, reinforcing her position in society and well-being of the family. This provision is crucial for the empowerment and protection of women and reflects this law's commitment to gender justice and human dignity.

24. In this context, I may usefully refer to paragraphs 35, 36 and 40 of the decision of the Hon'ble Supreme Court in *Prabha Tyagi v. Kamlesh Devi (AIR 2022 SC 2331)*, which reads as follows:

"35. In the Indian societal context, the right of a woman to reside in the shared household is of unique importance. The reasons for the same are not far to see. In India, most women are not educated nor are they earning; neither do they have financial independence so as to live singly. She may be dependent for residence in a domestic relationship not only for emotional support but for the aforesaid reasons. The said relationship may be by consanguinity, marriage or through a relationship in the nature of marriage, adoption or is a part of or is living together in a joint family. A majority of women in India do not have independent income or financial capacity and are totally dependent vis-à-vis their residence on their male or other female relations who may have a domestic relationship with her.

36. In our view, the D.V. Act is a piece of Civil Code which is applicable to every woman in India irrespective of her religious affiliation and/or social background for a more effective protection of her rights guaranteed under the Constitution and in order to protect women victims of



domestic violence occurring in a domestic relationship. Therefore, the expression 'joint family' cannot mean as understood in Hindu Law. Thus, the expression 'family members living together as a joint family', means the members living jointly as a family. In such an interpretation, even a girl child/children who is/are cared for as foster children also have a right to live in a shared household and are conferred with the right Under Sub-section (1) of Section 17 of the D.V. Act. When such a girl child or woman becomes an aggrieved person, the protection of Sub-section (2) of Section 17 comes into play.

40. Bearing in mind the aforesaid discussion, question No. 2, namely, 'whether it is mandatory for the aggrieved person to reside with those persons against whom the allegations have been levelled' is accordingly answered. It is held that it is not mandatory for the aggrieved person to have actually lived or resided with those persons against whom the allegations have been levelled at the time of seeking relief. If a woman has the right to reside in a shared household, she can accordingly enforce her right Under Section 17(1) of the D.V. Act. If a woman becomes an aggrieved person or victim of domestic violence, she can seek relief under the provisions of the D.V. Act including her right to live or reside in the shared household Under Section 17 read with Section 19 of the D.V. Act."

26. The argument advanced by the learned counsel for the revision petitioners/respondents in M.C that since the petitioner in M.C owns another property which she obtained by virtue of a settlement deed executed by her own brother, she has no right to reside in the shared household, is untenable. Likewise, the argument advanced by the learned counsel for the respondents in M.C that after the death of the husband, petitioner in M.C is residing at her parental house and therefore she is not an aggrieved person as defined under Section 2(a) of DV Act, is meritless. There is no merit in the contention put forward by the respondents in M.C that there is no domestic



relationship between them and the petitioner is devoid of any merit.

27. The evidence on record would show that respondents committed acts of domestic violence against the petitioner and the respondents made an attempt to evict the petitioner and her children from the shared household. The very nature of the contentions taken by the respondents in M.C/revision petitioners would show that the cause of action spoken to by the petitioner in M.C that they are trying to oust her from the shared household and causing obstruction to her peaceful residence and entry therein is true. Therefore, the learned Sessions Judge was absolutely right in its finding that the petitioner is entitled to get an order restraining the respondents in M.C from committing any acts of domestic violence against the petitioner and her children and causing any obstruction from entering the shared household and residing there peacefully.

28. This Court finds no reason to interfere with the judgment in Crl.A No.183/2015 of the Sessions Court, Palakkad.

The Crl.Revision Petition is devoid of any merit and is accordingly dismissed.

**Sd/-**