

## **K. Varalakshmi W/O Keshavan vs Keshavan @ Govindaiah on 11 March, 2015**

IN THE COURT OF THE METROPOLITAN MAGISTRATE  
TRAFFIC COURT-I, MAYOHALL UNIT, BANGALORE.

Present:- Smt. Jyothishree Ramagowda Patil,  
B.A., LL.B (Spl.),  
Metropolitan Magistrate,  
MMTC-I, Bangalore.

DATED 11th DAY OF MARCH 2015

C.C.NO.325/2014

Complainant:- K. Varalakshmi W/o Keshavan,  
Aged about 55 years, No.21,  
Kemppanna Road, Maruthi Sevanagar,  
Bangalore.State by

(Rpd by Sr.APP)

V/s

Accused:- 1. Keshavan @ Govindaiah,  
S/o Late Muniswamy,  
Aged about 65 years, No.12,  
1st Cross, Tank Bund Road,  
Kanakadasa Layout,  
Lingarajapuram, Bangalore.

(Rpd. By Sri.ADR Adv.)

### **JUDGEMENT**

The complainant Smt. K. Varalakshmi has filed complaint against her husband/the accused and others for the offence punishable U/Sec.31 Protection of Women from Domestic Violence Act.

2. The brief facts of the case of the prosecution are that:

It is stated in the affidavit filed by the aggrieved person along with her complaint that the accused M. Keshavan @ Govindaiah is her husband and she has filed a Criminal Miscellaneous Petition against him in CrI.M.No.202/2010. It is stated that the accused is not paying interim maintenance as per the order of the court and inspite of prohibitory orders he is giving houses for rents. The complainant has also stated that the accused is giving threat to her with regard to the court cases. After recording the sworn statement of the complainant the criminal case is registered against the accused and summons were issued.

3. The accused appeared and got enlarged on bail. The substance of accusation is read over and explained to the accused. The accused pleaded not guilty and claimed to be tried.
4. The complainant is examined as PW.1 and the documents are marked from Ex.P.1 to Ex.P.14. The statement of accused U/Sec.313 of Cr.P.C., is recorded. There is no defence evidence.
5. The counsel for the complainant filed written arguments. Heard the arguments.
6. The points that arise for my consideration are as follows:

1) Whether the complainant proves that the accused inspite of prohibitory orders passed by this court in Crl.Misc.No.202/2010 has

alienated the property, gave threat to the complainant and failed to comply the interim maintenance orders and thereby committed the offence punishable U/Sec.31 of Protection of Women from Domestic Violence Act?

2) What Order?

7. My findings on the above points are as under:

Point No.1: In the Affirmative.

Point No.2: As per final order for the following:

#### REASONS

8. Point No.1:- The complainant has filed her affidavit for examination-in-chief. The complainant has deposed in her affidavit that there is a court order restraining the accused from alienating the said property. But, inspite of that he has alienated the part of the shared household to one Appanna. PW.1 has also deposed that the said Appanna is a drunkard and he is causing obstruction to the complainant to enjoy the shared household. As per the interim order passed by this court on 29.4.2010 the accused was restrained from causing any encumbrance on the schedule property which is the shared household of the complainant and the accused. The accused was also directed to

pay Rs.5,000/- per month towards monitory reliefs. There is no any prohibitory order against one Appanna. PW.1 has deposed that the accused used to come and threat her of taking back the cases filed by her against him. PW.1 is fully cross-examined by the accused. During the cross-examination, she has admitted that she is staying in the shared household and she has also stated that one Appanna who is the follower of the accused comes to the house and causes interference. PW.1 has stated that one Appanna, Karthik, Babu and his wife are illegally staying in the said house. PW.1 has deposed that when she appeared before another court i.e., 11th ACMM Court the accused assaulted on her. The accused has taken defence that he has not obstructed her from enjoying the said schedule property and he has not given the said property on rent to anybody and he has not caused any acts of domestic violence. It is argued for the accused that there are no arrears of maintenance to be paid by the accused against the complainant. On verifying the records, it reveals that the main petition CrI.Misc.No.202/2010 is already disposed off. The complainant has produced the documents from Ex.P.1 to Ex.P.14. The Ex.P.5 goes to show that the complainant has already filed the criminal complaint against one Appanna and others for the offences punishable U/Sec.341, 354, 448 r/w Sec.34 of IPC. However as per the interim order passed by this court there is protection order passed against the accused directing him not to cause any interference to the complainant as for as enjoyment of the schedule property. But, on perusal of the evidence given by the complainant, it goes to show that inspite of interim order the accused is causing obstructions to the complainant in enjoying the suit schedule property peacefully. As per Sec.31 of the Protection of Women from Domestic Violence Act whenever there is violation of order the evidence of the complainant is sufficient to hold the guilt of the accused which is punishable U/Sec.31 of the Act. Sec.31 states that a breach of protection order or of an interim protection order by the respondent shall be an offence under this act and shall be punishable with imprisonment of either description for a term which may extend to one year or which may extend to fine of Rs.20,000/- or with both. In the present case, there is protection order restraining the respondent i.e., the present accused from causing any interference in enjoyment of the shared household. In the present case, the evidence of complainant goes to show that the respondent has violated the protection order by keeping the agents into the said house and also caused obstruction in enjoyment of the suit schedule property. Hence, I find the accused is guilty of the offence punishable U/Sec.31 of Protection of Women from Domestic Violence Act. Hence, I answer in the Affirmative to Point No.1.

9. Point No.2:- For the aforesaid reasons, I proceed to pass the following:

ORDER Acting U/Sec.255(2) of Cr.P.C., the accused is convicted and sentenced to pay fine of Rs.2,000/- for the offence punishable U/Sec.31 of the Protection of Women from Domestic Violence Act.

The bail bonds and the surety bonds of the accused shall stands cancelled.

(Dictated to the Stenographer, transcript thereof corrected, signed and pronounced by me on this the 11th day of March 2015).

(Jyothishree Ramagowda Patil) PO, MMTC-I, MAYOHALL UNIT, BANGALORE.

ANNEXURE LIST OF WITNESS EXAMINED ON PROSECUTION SIDE:

PW.1 : K. Varalakshmi.

LIST OF DOCUMENTS MARKED ON PROSECUTION SIDE:

Ex.P.1 : Certified copy of order sheet of interim orders.

Ex.P.2 : Certified copy of charge sheet. Ex.P.3 : Certified copy of first information report. Ex.P.4 : Certified copy of complaint. Ex.P.5 : Certified copy of charge sheet.

Ex.P.6 : Wound certificate.  
Ex.P.7 &  
Ex.P.8 : Medical prescriptions.  
Ex.P.9 : Copy of complaint.  
Ex.P.10 : Copy of statement.  
Ex.P.11 : Acknowledgement.  
Ex.P.12 &  
Ex.P.13 : Copies of statement.  
  
Ex.P.14 : Copy of complaint.

LIST OF WITNESS EXAMINED ON DEFENCE SIDE:

---NIL---

LIST OF DOCUMENTS MARKED ON DEFENCE SIDE:

---NIL---

(Jyothishree Ramagowda Patil) PO, MMTC-I, MAYOHALL UNIT, BANGALORE.

Order pronounced in the open court for the reasons stated in the separate order.  
(Vide separate order).

ORDER

Acting U/Sec.255(2) of  
Cr.P.C., the accused is  
convicted and sentenced to pay  
fine of Rs.2,000/- for the  
offence punishable U/Sec.31 of  
the Protection of Women from  
Domestic Violence Act.

The bail bonds and the

surety bonds of the accused  
shall stands cancelled.

(Jyothishree Ramagowda Patil)  
PO, MMTC-I, MAYOHALL UNIT,  
BANGALORE.