

**IN THE COURT OF THE JUDICIAL MAGISTRATE FIRST CLASS
AIZAWL: MIZORAM**

Criminal complaint No. 125 of 2018

Smt. Dr. R. Lalnunmawii : Petitioner
Protection Officer 'W'
(Protection of Women from Domestic Violence Act (PWDVA))

Versus

Shri P.C. Lalfakzuala
S/o P.C. Vanlalvena
R/o Bungkawn Vengthar, Aizawl : Respondent.

BEFORE
SHRI. H. LALDUHSANGA
JUDICIAL MAGISTRATE FIRST CLASS
AIZAWL

ORDER

Dated: 12.10.2018

1. This is an application U/s 12 of the Protection of Women from Domestic Violence Act, 2005 (*hereinafter called the Act*) for reliefs U/s 18, 20 and 21 filed by Protection Officer Smt. Dr. R. Lalnunmawii on behalf of Aggrieved Mary Lalbiaktluangi D/o Lalhuanvawra (L) R/o Bungkawn Vengthar, Aizawl, Mizoram against Respondent Shri PC Lalfakzuala S/o PC Vanlalvena R/o Bungkawn Vengthar, Aizawl, Mizoram on 04.09.2018.
2. Duly stamped, accepted and registered as Criminal Complaint No. 125 of 2018 under the Act.
3. On hearing the submission of the Service Provider and upon careful perusal of the documents on record including Domestic Incident Report, I am satisfied to proceed with the case.
4. I have heard the Ld. Counsel for the Aggrieved person and the Respondent himself. The Respondent admitted that when he got drunk, he used to lose his control, behavior and cause a problem and disturbance in the family. As such the above is the situation, U/s 18

of the Act, Respondent PC Lalfakzuala is hereby restrained from doing any acts of domestic violence to the Aggrieved and the three minor children. He is directed not to violate the above Protection Order and in case of violation, a punitive action shall be taken against him as provided by the Act. For better understanding, it would be extracted in Mizo language as under:

"PC Lalfakzuala hian Mary Lalbiaktluangi hi kut a thlak emaw, tawngka emaw phone hmang pawhin a vau emaw, hetiang ti tur hian tupawh a tir emaw a nih chuan PC Lalfakzuala chungah Section 31 of the Protection of Women from Domestic Violence Act, 2005 hmangin Action na taka lak a ni ang".

5. Apart from the above, the Ld. Counsel for the Aggrieved strongly prayed this Court to grant monthly maintenance at the rate of Rs 10,000/- to the Aggrieved on the grounds *inter alia* the parties are husband and wife and the Aggrieved has been looking after the three minor children born to the parties as the Respondent's place of posting is outside the state of Mizoram. However, this Court takes another view. It appeared from the evidence that the Aggrieved is working as a Customer Assistant at SBI Lengpui Branch, Aizawl District and the Respondent is Havildar, Indian Army presently posted at Kanpur, Uttar Pradesh. It is after much thought and careful consideration the considered view of this Court that the parties are still living together as husband and wife. There is no dissolution of marriage of the Parties. Therefore, fixing the rate of monthly maintenance to be paid by the Respondent to Aggrieved may cause conflict, quarrel, mutual misunderstanding etc between the Parties in the time has to come. Fixing the rate of monthly maintenance to be paid between the living husband and wife is improper and does not find favour with this Court. The matter relating to this rate of monthly maintenance i.e fixing or not fixing is best left to the Parties as being husband and wife. In the meanwhile, this Court would like to remind the Respondent that making payment of monthly maintenance to the Aggrieved for the maintenance of their three children at the reasonable rate reasonably at regular interval is his responsibility as being biological father of his three minor children. On considering the basic needs, the physical needs, the comfort, the health, the moral, the spiritual life, the education, maintenance and welfare of their three loving minor children, this Court wishes the Parties to work together as a family and join their hands together always for the welfare, well-being and the best interest of their loving minor children. No doubt, the Parties might have experienced a tear of married life in the past, let bygones be bygones. To conclude, this

Court wishes the Parties to start a new way of life and living together as good, better and better and reliable husband and wife instead of fighting long legal battles.

6. With this order, the present case is disposed of.

(H. LALDUHSANGA)
Judicial Magistrate First Class
Aizawl: Mizoram.

Memo No.....:
Copy to:-

Dated Aizawl, the 12th October, 2018

1. Smt. Mary Lalbiaktluangi D/o Lalchhuanvawra (L) R/o Bungkawn Vengthar, Aizawl, Mizoram.
2. Smt. Dr. R.Lalnunmawii, Protection Officer PWDVA, Social Welfare Department, Aizawl, Mizoram.
3. Shri P.C.Lalfakzuala S/o P.C.Vanlalvena, Bungkawn Vengthar, Aizawl.
4. Service provider
5. Judicial section
6. Case record.

PESHKAR