IN THE COURT OF DISTRICT JUDGE,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_

IN THE MATTER OF:

IN THE MATTER OF:

1.       \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

W/O SHRI \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

D/O \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

R/O \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_                         ..COMPLAINANT/PETITIONER

VERSUS

SHRI \_\_\_\_\_\_\_\_\_\_\_\_

S/O \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

R/O \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SHRI \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

S/o late Shri \_\_\_\_\_\_\_\_\_\_\_

R/o \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SMT \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

W/o SHRI \_\_\_\_\_\_\_\_\_\_\_\_\_

R/o \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

..ACCUSED/RESPONDENT

**P.S. \_\_\_\_\_\_\_\_\_\_\_\_\_**

**APPLICATION UNDER SECTION 12 OF THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005 (43 of 2005)**

MOST RESPECTFULLY SHOWETH:

1. That the present application is being filed by the Complainant herein under Sections 12, 18 (d), (e) and (f), 19 (f), 20(i) b) and (d), 22 and 23 of the Protection of Women from Domestic Violence Act, 2005.

2. The numerous incidents of physical abuse, verbal abuse, emotional abuse, economic abuse committed by the Respondent on the Complainant are as described hereunder:

a)     Marriage was solemnized between the Complainant and the Respondent No. 1 on \_\_\_\_\_\_\_\_\_\_\_ at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ according to Hindu Rites and ceremonies. Ever since, i.e. for the last \_\_\_ years, the Complainant has been suffering physical and mental abuse, pain, helplessness, unhappiness and anger on account of the Respondent No. 1 and his family. Eventually, being unable to bear with the trauma and agony, the Complainant fearing for her life, being destitute without any money and stridhan has been constrained to file the present complaint.

b)     The Complainant had an arranged marriage with the Respondent No. 1. The parties come from very different backgrounds. The Complainant belongs to a closely knit family with a lot of family values and culture. On the other hand, the Respondent No. 1 belongs to a business family which is driven only by money and materialistic gains.

c)     The Complainant and her parents at the time of marriage were made to believe that the Respondents were a very well to do family. Believing the Respondent No.1’s family, marriage was arranged between the parties. A lavish wedding was held at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ by the Complainant’s parents and all the demands of the Respondent No.1’s family as regards jewelry, household items, and other items for them as well as the relatives of the Respondent No.1 were met by the Complainant’s parents. However, the mother in law of the Complainant was not happy with the jewelry, household items, and other items and would constantly taunt and insult her and her parents for not getting the jewelry, household items, and items as per their standards and name in the society. The Complainant communicated her inhibitions about the Respondent’s family and in particular his mother to the Respondent No.1. However the Respondent No.1 never assured the Complainant that he would try to speak to his mother or reconcile the differences between the Complainant and his mother.

d)     Soon after the marriage the Complainant realized that the Respondent No.1 was very aggressive, angry and wanted to control the Complainant in every respect. The Complainant was not given any space or freedom to do anything in the house and was specifically told that she can’t do a job, which the Complainant found very difficult to deal with but owing to the values given to her by her parents, she always made every effort to deal with the miserable situation and keep quiet for the peace of mind of her parents. The Complainant having no choice gave herself totally to the Respondent No.1 and his family and molded herself according to their ways, which was very different from her side of the family.

e)     After the first year of marriage itself, the Respondent No.2, mother-in-law forced the Complainant to do all the household work without any support from her mother-in-law. It would be pertinent to point out that Respondent No.1 was doing extremely well and was earning well. He was running a business but he was always reluctant to provide any financial support to the Complainant despite being financially very well off.

f)      The Complainant lived in a joint family. The Complainant’s in-laws made the Complainant do the entire household work. Respondent No. 1 and 2 made her \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. The Complainant was forced to work even at the time of her pregnancy and the Respondent No.1 never bothered to care about the health or the state of the Complainant. He spent no time with her.  The nine months were lonely and sorrowful. So much so that when the Complainant delivered her son \_\_\_\_\_, her mother in law was not happy as she wanted to get rid of the Complainant. She voiced this to the Complainant and made the Complainant feel that the child was unwanted and unwelcome into the family.

g)     The Complainant on many occasions would cry after getting into bed because no one could understand the physical and mental pain she was being put through by the Respondent No.1. The Respondent No.1 never had time to listen and would only fight and argue when the Complainant tried to plead and talk to him. The Respondent would in his fits of rage physically and mentally abuse the Complainant on several occasions. The Complainant continued to tolerate this for the sake of her small child.

h)     The Complainant always made efforts to please the Respondent No. 1 and his family. They all tolerated the Complainant as long as the Complainant played puppet in their hands, did what they wanted and lived how they wanted her to live. The Complainant did everything possible to make her marriage work and in the manner the Respondent No.1 and his family wanted. However, the Respondent No.1 was not caring towards the Complainant and never appreciated the efforts made by the Complainant to keep him and his family happy.

i)       The Complainant lived in a joint house for 5 years after her marriage and her life was miserable due to the aggressive, indifferent, angry behavior of the Respondents and continuous insults, taunting, very cold and indifferent attitude of her in laws. The Complainant was always taunted by her in laws on the ground that her parents never gave them enough during the marriage and on other festivals and functions. The Complainant’s parents tried to keep them happy in every way at every occasion by gifting Complainant’s in-laws with expensive gifts or cash but they were never satisfied.

j)       On or about \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ the Complainant was beaten up by her in–laws and at that time she was pregnant with her first Child, the Complainant was even thrown out of her in-laws House. The Complainant called up her father who came and took the Complainant to their house. The Complainant stayed at her parents house for one and a half month and in between the Respondent No 1 or his family members did not bother to call or reconcile with the Complainant. After a lot of persuasion by the father of the Complainant the respondent finally agreed to take the Complainant in to their house.

k)     The Complainant states that the Respondent No.1 had a grave drinking problem and as a result, he drank alcohol very heavily. He had no control over his drinking. The Respondent No.1 would get drunk, get loud and abusive in the dirtiest of abuses, throw up, pass out, get violent, spit on the Complainant and make life hell for the Complainant. The Respondent No.1 never bothered about their son and would become abusive physically and become totally uncontrollable in front of their child. The Complainant’s requests and pleadings to drink within limits were met with angry and violent physical backlash and opposition from the Respondent No.1.  The Respondent No.1 treated the Complainant with extreme cruelty.

l)       The Complainant states that when the Respondent gets into a rage he completely loses his control, is abusive and violent and becomes like a demon, and till today he continues with this behavior. After \_\_\_\_\_\_\_\_\_\_\_\_, there was no control over this and it became a regular feature with the Respondent No.1 to become physically abusive and violent and even abuse the Complainant in front of the minor son and in public. The Complainant got no help or support from her parents in law i.e. Respondent No.2 & 3 and on the contrary, they encouraged and sided with the Respondent No.1 and wanted the Complainant to cooperate with this animal behavior and live with it without complaining or talking about it to her family. The Respondent No.1’s parents discouraged her from telling her parents about these incidents by saying that this would further annoy the Respondent No.1 and disturb the peace of the family. The Respondent No.1’s parents kept on repeating every other day and the Complainant did not know who to turn to for support and help as her in laws felt the Respondent’s No. 1’s behavior was normal and took the mental and physical abuse very lightly and did not bother to speak to the Respondent No.1 to change his behavior towards the Complainant.

m)   The Complainant was constantly living in fear of her life as the Respondent is strong physically and has a bad temper, was aggressive, loud and completely unpredictable in his reaction to the situation. The Respondent No.1 would openly threaten the Complainant that he would physically harm her in such a manner that she would repent her whole life. The Complainant did not want to trouble her parents. The Complainant could not share her grief with anyone and continued to give in to the Respondent No.1’s demands in the hope that things would get better and peace would come to the family.

n)     The Respondent No.1 not only picked up fights and quarrels with the Complainant but also fought with the Complainant’s father brother and family publicly, which brought huge embarrassment, shame and agony to the Complainants. The Complainant’s plea to the Respondent No.1, to not fight with the Complainant’s family was of no avail. The Respondent No.1’s unreasonable and abnormal behavior continued to increase with the passage of time and he started to threaten her for life by saying would slash her throat while she was sleeping.

o)     The relationship between the parties became more estranged. The Respondent No.1 continued with his assault, physical, emotional abuse and they were like strangers living under the same roof. Things have become so bad that the Complainant had to call her father on several occasions to control the situation and prevent further physical abuse at the hands of the respondent No.1 in presence of Respondent No.2 & 3.

p)     That Complainant had in the span of \_\_\_ years of marriage got \_\_\_ abortions done. The Respondent use to come drunk to the house late at night and would by force without the wish of the Complainant get physical with the Complainant, resulting into making the Complainant pregnant and then without even consulting the Complainant by force get the said abortions done.

q)      That on or about \_\_\_\_\_ the Respondent again got physical with the Complainant resulting in her again getting pregnant and when the Respondent went for another abortion the doctor refused for the said abortion as the body of the Complainant was not in the state to take up one more abortion hence on advise of the doctor the Complainant requested the Respondent not to abort the second Child.

r)      That on \_\_\_\_\_\_\_\_ when the Complainant was three- four month pregnant the respondent No 1 along with his family members fought with the Complainant and even beat him up, the Complainant in fear called up her father at \_\_\_\_\_\_ in the night and the father of the Complainant came and took the Complainant back with her to his house. The Complainant even filed a case in the C W Cell against the respondent but had to withdraw the same as she was pregnant and she was advised rest.

s)      That on \_\_\_\_\_\_\_\_\_ the Complainant left the house of the Respondent and till \_\_\_\_\_\_\_\_\_\_\_ no one from the side of the respondent came to meet the Complainant or even gave a call to ask about her health as she was pregnant. That during this period the Complainant gave birth to the second Son \_\_\_\_\_\_\_\_\_\_\_\_\_. But still the Respondent No1 or his family member did not come to see the child and it was finally on \_\_\_\_\_\_\_\_\_\_\_\_\_ that after one more round of talks between the father of the Complainant and the Respondent No. 1 that the Respondent No. 1 agreed to take the Complainant into the house of the Respondents.

t)       That after \_\_\_\_\_\_\_\_\_ when the Complainant came back to the house of the respondent the Drinking habits of the Respondent No 1 increased, the Respondent No 1 use to come drunk late at night and use to even drink in the room. The physical torture of the Respondent No 1 increased with passage of time.

u)     The Complainant could not tolerate the torture, cruelty and behavior of the Respondents any more. The Respondents made no efforts to check upon the Complainant or her son throughout this period who was under such a mental stress and trauma at such a tender age.

v)     On the contrary the Respondent No.1 and Respondent No.2 on a daily basis shout and hurl verbal abuses to the Complainant and her family.

w)   On \_\_\_\_\_\_\_\_\_\_\_the Respondents again abused the Complainant and finally, fed up with all this the Complainant on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ left the house of the Respondents and till date has been staying with her parents. The Complainant felt too scared and confused and even more helpless while she was at her in-laws house.

x)     The respondent No.1 and his family has taken all the valuable belonging of the Complainant. The details of which were filled before the CW Cell and the same are Annexed as Annexure \_\_\_.

y)     That the Complainant submits that the expenses of the Complainant and the sons is as follows:-

(i)                   School Fees of Son: Rs     ,000/- per month

(ii)                  Household expenses like food, clothing, cleaning etc.: Rs   ,000/- per month

(iii)                Transportation Expenses: Rs     ,000/- per month

(iv)                 Personal and medical expenses of the Complainant and her sons: Rs   ,000/- per month

The Complainant as such requires Rs  ,000/- per month to support herself and her children.

z)     The respondent No.1 is earning handsomely. The exact figures are not known to the Complainant. With the view to avoid paying maintenance and supporting the Complainant and children he is making excuses that he is not working anywhere.

aa) In \_\_\_ years, the Complainant has selflessly given in this relationship emotionally, physically, mentally, monetarily and demanded nothing but self-respect, support and love which she was deprived off. The Respondent has provided the Complainant with no financial security. The Complainant’s entire jewellery was in possession of the Respondent No.1 and his family which the Respondent No.1 and his family has refused to hand back. The Complainant has no Fixed Deposit or property in her name. This has further added to the Complainant’s insecurities, depression and frustrations.

bb)The Complainant today is left with no self-respect, no self-esteem, no confidence, no money and everything has been taken away from her. The Complainant is mentally and emotionally shattered today. The Complainant is unable to look after her child as such she has no choice but to fall on her parents for financial support. The provision for the basics needs like food, clothing, education is being provided from the money being given by the Complainant’s father and brother.

cc) The Complainant has suffered immense pain and hurt from the Respondents. The Complainant has not slept one night in peace for as long as she can remember. The Complainant is mentally, physically and emotionally scarred/drained and she is unable to carry on anymore like this.

dd)It is submitted that the Respondent No.1 is having sufficient means but despite that is neglecting and refusing to maintain the Complainant and the minor sons. Complainant is unable to maintain herself or her sons. The addresses of the sisters of the Respondent No 1 are not known to the Complainant and the Respondent No. 1 may be directed to provide the same so that they can be made a party to this petition.

ee) It is prayed that the Hon’ble Court may take cognizance of the Domestic Incident and pass the following orders, as deemed necessary in the circumstances of the present case.

(i)   Protection Order under Section 18

Prohibiting acts of domestic violence by granting an injunction against the Respondents from:

(ii)  Monetary reliefs under Section 20

(A)        Rs.    0,000/- per month towards maintenance for herself and her children

(B) Rs.   0,000/- towards litigation expenses

(iii)  Compensation order under Section 22

(a)  Direct the Respondent to pay and amount of Rs. \_\_\_\_ lakhs towards compensation for damages under the Protection of Women from Domestic Violence Act 2005.

(iv).  Interim Relief under Section 23

a)                                         In the light of the above mentioned facts and circumstances of the case and the fact that the Complainant is completely without the basic necessities of food, maintenance and shelter and has no means to survive and hence an exparte ad interim order for grant of maintenance of Rs.    0,000/- be granted in favour of the Complainant.

b)                                          The Complainant all through out her married life has been treated by the Respondents with utmost cruelty both mental and physical, and has a prime facie case in her favour. It is further stated that the Respondenst have committed numerous acts of domestic violence and is entitled to protection under the present act from the respondent by the police otherwise grave prejudice and harm would be caused to the Complainant and her minor daughter

v).  Details of previous litigation, if any

a)    A Complaint filed by Complainant before the C W Cell on which an FIR has been registered. Copy of which is annexed as Annexure\_\_\_\_.

b)    An application filed by Complainant under Section 125 of CrPC for maintenance. Copy of the same is annexed herewith as Annexure \_\_\_\_\_.

vi). The Complainant is residing within the local limit of jurisdiction of this Hon’ble Court and hence, this Hon’ble Court has the jurisdiction to entertain the present petition.

PRAYER:

It is most respectfully prayed that this Hon’ble Court may be pleased to :-

(b)           Pass all such orders or any of the order as deem fit and proper under section 18, 20, 22 & 23 of the Protection of Women from Domestic Violence Act, 2005.

(c)            Hon’ble Court may please to direct the Respondent to pay and amount of Rs. \_\_\_\_\_\_\_\_\_ lakhs towards compensation for damage u/s 22 of the Protection of Women from Domestic Violence Act 2005.

(d)           pass an exparte ad interim order under Section 23 as mentioned in Para 4 of the application.

(e)            Pass such other Order (s) as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case.

COMPLAINANT

Through

\_\_\_\_\_\_\_\_\_\_\_\_

VERIFICATION:-

Verified at Delhi on          this day of          , \_\_\_\_\_\_\_\_\_\_  that the contents of the complaint are true and correct to the Complainant’s knowledge and belief to be true on the basis of legal advice received by the Complainant and the last Para is the prayer clause of the Complainant.

COMPLAINANT

**How to file objections/written statement to wife’s DV/CrPC 125/divorce etc petition**

The standard thing that needs to be done when husbands get summons from court in maintenance/DV case is to file objections.  Ok, some people may say that the judge will send the case to mediation first, but the useless drama that goes by mediation is the subject of another post later.  So here I provide very simple way how to write the objections for each statement in wife’s petition.  It is always advised to write your own and send it to advocate for taking print and filing in court.  Because even though wives are allowed to tell lies and rampant contradictions, higher standards may get applied to statements made by respondent husbands.

The standard way is like this:

Wife’s petition says:

 In the XYZ court between

Maharani DV-498A                                                 Petitioner

vs

‘Victim’-of-false-cases                                            Respondent

1. I got married on XYZ date in ABC place etc.

2. I was not given food

3. I was beaten up

4. Husband is impotent

5. I was sexually abused

6. blah blah blah

In the end, her petition says: “I should be given 50,000 p.m maintenance, legal costs, blah blah blah…”

So your objection /written statement should be like this:

1. Admitted the fact of marriage of petitioner and respondent on XYZ date in ABC place. (if the fact of marriage and date/place are true)

2. Petitioner’s allegation that “I was not given food” is denied and she is put to strict proof of the same.  Or maybe better to use third person format like: Petitioner’s allegation that she was not given food is denied and she is put to strict proof of the same.

3. Petitioner’s allegation that she was beaten up is denied and she is put to strict proof of the same.

Read my book on how to save on maintenance under CrPC 125 and DV Act.  (Kindle eBook version)  (Print Paperback version)

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Similarly take each para/point in petition and if something is true, you can accept that and whatever is false you can deny in same format as above.

You can also add up some of your own points, story, or allegations if you will.  Later on the same can become part of your evidence/affidavit.  This is because if wife makes even false allegations but we don’t even state the actual domestic violence at hands of wife what happened; then a presumption may arise in mind of judges that the one who makes allegations might have at least 20% truth in those allegations, but the one who simply denies but has no counter-allegations to make might be the culprit.  Don’t ask me the logic behind this, family courts are not run based on much logic anyway.  It’s a psychological game so one shouldn’t be seen to be coming under any pressure.  Or to take a logical perspective of human psychology behind it: Trying only to defend may not be the right defence.  Many lawyers will suggest in beginning to focus only on denial and defending (to steer towards C-word basically), but I tend to disagree because if the cases actually go to evidence and full trial, not having made any allegations in the objection statement may create a disconnect and a disadvantage.

In the end, state that “for the reasons mentioned above, petitioner’s petition should be dismissed with exemplary costs, in the interest of justice and equity”.

During the objections, one need not give any evidence.  But I would not be very strict about ”don’t disclose any evidence till trial” policy advocated by many.  It’s not a purely legal game, it’s also a psychological game, so if one can create some fear in opponent’s minds at the very beginning of the cases by disclosing some tactical evidence; they may feel the same fear and uncertainty that they want you to feel about what’s going to happen next.  This can be suitably followed up to make them agree to a zero or token alimony divorce.  Else they may think that you are scared OR you want to beg and bring wife back, which never works in practice anyway as explained in the main Advice to men post.

Below update on 13/04/2017:

Questions on preparing and writing WS/Objections

OP: Opposite Party (wife etc in matrimonial petitions/complaints)

1) What is the ideal way of preparing the WS: Deny all N allegations serially point-by-point with N statements. Then write your own allegations in a separate section under “Additional Plea”?

OR

Deny all N allegations and also include our own statements in between, thus maintaining a chronological order of statements?

A combination of both can be probably most practical and suitable. The reason for this is that some of your counter points and rebuttals make sense when made immediately after refuting the false allegation point made by OP to which they are strongly connected based on time/date of event etc.   This makes for a nice flow, and these counter points can later be used at arguments stage too.  Many a time the false petitions of OP contain vague allegations without proper time, dates or even chronological order.  In that scenario, you may tactically give your own version of the facts and you can put accurate time/dates also to make it look more plausible and professionally written too.  In case the OP’s petition has points given in random time order, you need not bother why they have made points jumbled up in time, but just reply to each point in OP’s petition/complaint in same order they appear.

After refuting of OP’s points above is done, you may still have your own points to make and facts to disclose about abuse/cruelty done to you, and give statements of facts which are important but conveniently hidden by OP, and maybe even to unload things off your chest and put them on paper and let the judicial process take a decision later on whose version is closer to truth.  Now you can make all these points preferably in chronological or topical order (e.g. all child related points if any could be made all together).  It’s more important that the points are all put on paper than aiming for perfection in ordering, organising of logical flow etc.  Writing to perfection can be very time consuming and probably not needed either given the OP cases are based on thin grounds.  We are not writing a fiction novel but a legal reply to a badly made OP’s petition.  What’s desirable and enough is that your WS reply should make for a logical reading and an unfolding story.

2) While denying the allegations, it is advisable to:
Just deny generally like “allegation that she was not given food is denied and she is put to strict proof of the same”

OR

Add your own way of proving the allegation false like “allegation that she was not given is denied because she was on holiday/office/xyz place and it’s not possible to have not given her food”

Strictly speaking a denial may be enough and that’s what most lawyers also suggest.  The only problem I have seen with this deny-only-because-I-am-innocent-anyway approach is that matrimonial cases are fought based mainly on allegations and very little substance by way of documents, recordings, messages etc.  Interim orders are given routinely based on so called ‘force’ of allegations made by wives.  That is how the situation has come about that it has become more about how to survive and play in a drama.  But the main advantage of giving arguments and pointing out contradictions and inconsistencies within OP’s petition/complaint is that it tends to put the OP/advocate on backfoot since for too long the wife’s side and advocates have been acting like they are ‘players’ with an exaggerated sense of entitlement and overconfident attitude in courts.  A strongly worded and logically explained WS immediately punctures their confidence by 50% at least, and mostly it is being seen that they are actually even reluctant to come for evidence stage after that.

Another very important thing that is being seen is that after filing a strong WS, many judges are asking for complainant to move to evidence stage directly without considering her interim application for maintenance etc.  That is a huge win since it means now they can get relief only after full judicial trial of evidence, cross-exam etc, which the OP side are most reluctant to engage in since their goal usually is not to get quick trial and justice for their allegations but to get interim maintenance and then sit and relax.
3) Is it required or advisable to include any precedence/judgement regarding maintenance/costs/alimony/support in the case where wife is working/educated/able to work?

Though citing judgments is normally done while doing arguments on interim applications or for final arguments on main petition/complaint, putting a few citations may not harm.  But it should not be carried to an extreme.  Many people think that just collecting judgments and citations will help their cause but if the judgment is not matching facts of your case closely, it may only distract from the overall case and arguments.

4) Can we request dismissal of petition based on jurisdiction too apart from the other statements and allegations?

A case cannot be filed normally if jurisdiction does not exist in that court.  This a basic point of law but somehow the adhering to basic points of law has been pushed under the carpet in favour of accepting any case which is submitted to a court, and let the proceedings begin.  Although many lawyers suggest to file objections and raise jurisdictional simultaneously as a point, somehow it seems totally against common legal sense.  If you start giving point by point reply to whole petition/complaint of OP then in a way you are admitting that the petition/complaint is valid.  An alternative approach can be to be ready with written objections but at first make submissions and argue for case dismissal itself since it is not maintainable due to jurisdiction.  If that submission is overruled, then you can file WS on next date itself.