

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Reserve: July 27, 2010

Date of Order: 13th August, 2010

+ Crl.M.C.No. 3290/2009 & Crl.M.A.No. 11179/2009

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13.08.2010

Smt. Raj Kapur & Anr.

.. Petitioners

Through:Mr. Gaurav Puri, Mr. R.K.Mishra &
Ms. Gayatri Puri, Advocates

Versus

State & Anr.

... Respondents

Through:Mr. O.P.Saxena, APP for the State
Ms. Deepika V. Marwaha, Advocate for R-2

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

The present petition has been filed by the petitioners, who are father-in-law and mother-in-law, for quashing a complaint under Section 12 of Protection of Women from Domestic Violence Act, 2005 qua them, made by respondent No.2. It is stated by the petitioners that respondent no.2 was married about 27 years ago. She was employed and was earning Rs. 40,000/- pm and was owner of a new car and was working in a store viz. M/s. Atmosphere. She had leveled various allegations against her husband and the only allegations against the petitioners were that the jewellery gifted to her by her family was in custody of petitioners. It is stated that the

jewellery was gifted to her 27 years ago and was in her exclusive possession, she herself owned a locker in New Friends Colony being locker No. NFC D-1097 NFCGF), where she had kept her valuable items. She had a daughter who is 25 years old, unmarried and living with her in the same house. She was not having harmonial relations with her husband and was living separate from her husband for the last 10 years in the same house at first floor. She was not having any conjugal relations with her husband. There was no domestic relationship or shared household between petitioners and respondent no.2. Petitioner No.1 was heart patient and petitioner no.2 was suffering from eye sight problem and they had been unnecessary made parties to the application under Domestic Violence Act and therefore application qua them should be quashed.

2. I consider that it would not be proper for this Court to enter into an inquiry in respect of the application at this stage. It is the duty of Metropolitan Magistrate, where the application has been made, to ensure whether a domestic relationship existed between the applicant and the petitioners in view of judgment of this Court in Criminal M.C.No. 3878/2009 titled as Vijay Verma v. State NCT of Delhi & Anr. decided today i.e on 13th August, 2010.

3. I, therefore consider that the learned MM where the application is pending shall consider all facts and decide the existence of domestic relationship between the parties and the orders under the Act should be passed only after considering

whether any domestic relationship existed between the petitioner and the respondent. With these directions the petition is disposed of.

It is also directed that unless the petitioners' personal appearance was very essential, the petitioners shall not be asked to appear in person and they shall be allowed to be represented before the Court by an Advocate.

August 13, 2010
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SHIV NARAYAN DHINGRA, J.