

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-14733-2011

Date of decision : 27.04.2015

Harjinder

.....Petitioner

Versus

Ms. Sangita

...Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. R.K. Girdhar, Advocate for petitioner.

Ms. Harmanpreet Kaur, Advocate for respondent.

DARSHAN SINGH, J.

The present petition has been filed under Section 482 Cr.P.C. for quashing the application dated 24.01.2011 under Sections 12(1), 18, 19 and 20 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter called 'the Act') and the summoning order dated 24.01.2011, passed by the learned Judicial Magistrate First Class, Sirsa and all the consequent proceedings arising thereof.

2- Respondent Ms. Sangita has filed an application under the aforesaid Sections of the Act against her father Jagdeep Sharma and the present petitioner, who is relative of her father. As per the averments in the application, the present respondent is the disciple of 'Dera Sachha Sauda' and she used to visit there due to spiritual nature but her father and

the petitioner used to prohibit her from going to the Dera. They had jointly given beating to the applicant.

3- It is alleged that her father had proposed to sell her house to someone. If he succeeded in selling the 'shared household' then applicant will come on road and she has no means to maintain herself. Thus, she has sought protection order under Section 18 of the Act, residence order under Section 19 of the Act, monetary relief under Section 20 of the Act in the shape of maintenance allowance at the rate of Rs.3000/- per month, study charges at the rate of Rs.2000/- per month and the medical expenses at the rate of Rs.3000/-, total amounting to Rs.8000/- per month. Hence, she filed the petition.

4- The learned Judicial Magistrate, Sirsa entertained the application of the respondent and issued the notice to the petitioner and the father of the respondent through the Protection Officer, vide the impugned order dated 24.01.2011.

5- Aggrieved with the aforesaid order and the application, the present petition has been filed.

6- Learned counsel for the petitioner contended that the petitioner is son of aunt (father's sister) of the respondent and the petitioner does not fall within the definition of 'domestic relationship' as provided under Section 2(f) of the Act. Hence, the petition is not maintainable against the petitioner.

7- Learned counsel for the respondent contended that the petitioner is the relative of the father of the respondent. He along with

her father has been given beating to the applicant and subjected her to violence. So, the petition is maintainable.

8- I have duly considered the aforesaid contentions.

9- The short question in this petition is that petitioner Harjinder Singh, who is cousin brother (paternal aunt's son) of the respondent who does not fall in the definition of 'domestic relationship' and 'respondent', whether the present petition qua him is maintainable or not.

10- Section 2(f) of the Act defines the domestic relationship as under:-

“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;”

11- As per the aforesaid provisions of law, the domestic relationship means a relationship between two persons, who live or have lived together at any point of time in their shared household and when they are related by consanguinity, marriage or through a relationship in the nature of marriage, adoption or are family members are living together as a joint family.

12- Even from the perusal of the application Annexure P-1 filed by the respondent before the learned Magistrate the aforesaid ingredients are not satisfied. The present petitioner has been pleaded to

be the relative of the father of the respondent. In the entire application, it is nowhere mentioned that the petitioner was living or had ever lived at any point of time in the shared household with the present respondent. It is nowhere mentioned that on account of the relationship he is the member of their joint family. Moreover, a cousin i.e. the son of parental aunt can never be the member of the joint Hindu family. Consequently, petitioner Harjinder Singh does not fall within the definition of domestic relationship as provided under Section 2(f) of the Act.

13- Section 2(q) of the Act is also relevant which defines the respondent and reads as under:-

“2(q) “respondent” means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act:

Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner.”

14- The petitioner also does not fall within the definition of respondent as defined under Section 2(q) of the Act. He was never in a domestic relationship with the applicant.

15- Thus, the allegations that the petitioner had been given beating to the respondent cannot be stated to be the domestic violence. If the petitioner has been given beating to her, she can avail the remedy available to her under general law by lodging the criminal complaint either in the Court or with the police. But she cannot avail the remedy

against the petitioner under the provisions of the Act.

16- Thus, keeping in view my aforesaid discussion, the present petition is hereby allowed. The application dated 24.01.2011 and the impugned order dated 24.01.2011, qua the petitioner only, are hereby quashed.

27.04.2015

sunil yadav

**(DARSHAN SINGH)
JUDGE**