

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-11542 of 2014 (O&M)
Date of Decision:8.4.2015

Raja Narinderjit Singh and another

....Petitioners

Versus

Pamela Sahi

....Respondent

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present: Mr. H.S. Sethi, Advocate for the petitioners.

None for the respondent.

NAVITA SINGH, J.

1. The petitioners have sought quashing of the complaint (Annexure P9) and the summoning order dated 16.12.2013 passed therein.
2. The complaint was filed by the respondent herein against her brother and his alleged mistress under the Protection of Women from Domestic Violence Rules, 2006 (hereinafter referred to as the Rules). It is also mentioned that the complaint, by way of affidavit, was filed under Sections 12,17,19,20 and 22 of the Rules. It is not made clear by the complainant whether the same was filed under the sections given, which should be of the Protection of Women from Domestic Violence Act, 2005 (Act for short) or under the Rules. In any case, the prayer was for appointing a Protection Officer ordering suitable accommodation to be provided on the ground floor of the main house owned by the complainant together with monetary relief and compensation. It was alleged that after the death of her parents, complainant was maltreated by her brother and his friend Maria.
3. Counsel for the petitioners pointed out that similar complaint/application was filed by the complainant under Section 6 of the Rules for

appointing a Protection Officer and providing suitable accommodation on the ground floor of the main house. It may be pointed out at the cost of repetition that the complainant did not properly mention the provisions of law under which she was filing her application and whether it was some section of the Act or it was under the Rules.

4. The Judicial Magistrate 1st Class dismissed the application on the ground that inquiry was got made and finding was given by the police officer concerned that the applicant was already in possession of sufficient accommodation.

5. The complaint, in which the application under Section or Rule 6 was filed, is pending.

6. The respondent i.e. complainant then filed an application in that case for making present petitioner No.2 to a party. The application was dismissed.

7. Without challenging the above said orders, vide which her application under Section 6 of the Rules and for making Maria a party were dismissed, respondent filed another complaint making present petitioner No.2 also a party and seeking the same relief as was sought earlier and also seeking action against her brother and his friend. Also she had filed a suit for possession by way of partition of one house, one SCF and one shop against her sister Satwant Kaur and her brother i.e. present petitioner No.1.

8. It may be pointed out that despite filing a civil suit against her sister and brother, she filed an application under the Act for protection of her own life and that of her sister Satwant Kaur from their brother. The respondent is, thus, not sure whether she is with her sister Satwant Kaur or not.

9. Vide order dated 15.4.2011, Judicial Magistrate 1st Class, Chandigarh directed that SHO, Police Station Sector 3, Chandigarh would visit

house No.136 Sector 9-B, Chandigarh to provide necessary protection to the present respondent and her sister. As per the report submitted in compliance of the said order, Satwant Kaur had told the police that she was not having any threat to her life from her brother. She was rather being looked after by him and his wife.

10. It was mentioned in the report that the respondent herein namely Pamela Sahi was very aggressive in nature and that preventive action had already been taken under Sections 107 and 150 of the Code of Criminal Procedure. It was also reported that present petitioner No.1 along with his wife, children and sister Satwant Kaur were residing in one part of the house while complainant had sufficient accommodation in her possession on the first floor and some on the ground floor.

11. It was clear from the report that the complainant misled the court by stating that the life of her sister was also in danger at the hands of the present petitioners.

12. In the second complaint, the respondent also made a false declaration (as it was an affidavit) that she had not filed any other suit and that no other similar litigation was pending. She concealed that she had filed a civil suit and also had filed a similar complaint which was pending.

13. The respondent herein alleged in the second complaint that her brother was earlier married to Anna Maria Belmar, with whom the marriage was dissolved in November 2002 and that he was having a live-in partner i.e. present petitioner No.2. Satwant Kaur, sister of present respondent, however, told the police that her brother was living with his wife and children and she (i.e. Satwant Kaur) was also living with them.

14. It is also clear from the facts and circumstances given above that the complainant (now respondent) made abuse of the process of the court and filed

the second complaint concealing the fact that similar complaint was pending. Also a second complaint was filed without challenging the orders, vide which her applications for providing accommodation and for making present petitioner No.2 to a party, were dismissed.

15. The petition is, therefore, allowed. The impugned complaint and all consequential proceedings arising therefrom are quashed.

(NAVITA SINGH)
JUDGE

8.4.2015
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