

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

CRM-M-13476-2015

Date of decision : 28.04.2015

Vikram Nayyar alias Veenu

.....Petitioner

Versus

Kamini

...Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

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

Present: Mr. Mukesh Kumar Bhatnagar, Advocate for petitioner.

DARSHAN SINGH, J.

The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (here-in-after called 'Cr.P.C.') for quashing of the impugned orders dated 23.10.2012 passed by the learned Judicial Magistrate First Class, Amritsar, vide which the petitioner has been directed to pay a sum of Rs.800/- per month to the respondent under Section 23 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter called 'the D.V. Act') and the order dated 01.04.2014

passed by learned Additional Sessions Judge, Amritsar, vide which the revision against the aforesaid order has been dismissed.

2- Respondent Smt. Kamini had performed the second marriage with Buta Ram Nayyar, the father of the petitioner on 03.11.1996. That was also the second marriage of Buta Ram Nayyar. During the pendency of the petition before the learned Judicial Magistrate, said Buta Ram Nayyar died on 24.05.2010 and the impugned order of maintenance had been passed against the present petitioner, who was impleaded as respondent No.2 in the main petition pending before the learned trial Court.

3- The learned Judicial Magistrate, vide the impugned order dated 23.10.2012 directed the petitioner to pay the maintenance at the rate of Rs.800/- per month. The revision filed by the petitioner against that order was also dismissed.

4- Aggrieved with the aforesaid orders, the present petition has been filed.

5- Learned counsel for the petitioner pleaded that respondent-applicant Smt. Kamini had left the matrimonial house in the year 2003, whereas the D.V. Act came into force only in the year 2005. So, the application under the provisions of the D.V. Act was not maintainable. He further contended that the petitioner was also getting the maintenance under Section 125 Cr.P.C. and is not entitled for maintenance under the D.V. Act. He further contended that there were other respondents also but the maintenance order was only passed against

the present petitioner. Thus, he pleaded that the impugned orders are illegal.

6- I have given my thoughtful consideration to the aforesaid contentions.

7- From the perusal of the impugned order passed by the learned Judicial Magistrate, it comes out that the interim relief of maintenance has been granted to the respondent under Section 23 of the D.V. Act. The petitioner is the son of Buta Ram Nayyar, the husband of respondent Smt. Kamini, from the first marriage, so he clearly falls in the definition of 'respondent' as provided under Section 2(q) of the D.V. Act. The respondent had also resided in the 'shared household' with the father of the petitioner and his family members including the petitioner. So, they have the domestic relationship as defined under Section 2(f) of the D.V. Act. The aggrieved person has been defined in Section 2(a) of the D.V. Act, which means any woman, who is or has been in domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent. The respondent-applicant Smt. Kamini, being the step-mother of the petitioner, was living in domestic relationship and both of them were the members of the joint family. She is a childless step-mother. Her husband has already died during the pendency of present petition.

8- So accordingly, it is the duty of the petitioner to maintain the respondent. Thus, I do not find any illegality or legal infirmity in the impugned orders passed by the Courts below.

9- Consequently, the present petition has no merits and the same is hereby dismissed.

28.04.2015

sunil yadav

**(DARSHAN SINGH)
JUDGE**