

CRM-M-28869-2015 (O&M)

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

**CRM-M-28869-2015 (O&M).
Decided on: August 28, 2015.**

Rajesh Bharti and another

.. Petitioner(s)

VERSUS

Bimla Devi

.. Respondent(s)

*** * ***

CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI

*** * ***

**PRESENT Mr.Vishav Nath Sharma, Advocate,
for the petitioners.**

M.M.S. BEDI, J. (ORAL)

This is a petition under Section 482 Cr.P.C., seeking quashing of the complaint dated 7.10.2014, filed by respondent-aggrieved person against petitioner No.1 as husband and petitioner No.2 as mother-in-law under Sections 12, 18, 19, 20, 22 & 23 of the Protection of Women from Domestic Violence Act, 2005 which is stated to be pending before the Court of Judicial Magistrate First Class, Ambala, for 10.9.2015, contending that the proceedings against the petitioners require to be quashed on the ground that the respondent has been staying away from the petitioners for the last more than 14 years and a criminal case under Section 498 A IPC was registered against the petitioners culminating into acquittal of the petitioners. An appeal was filed by the respondent against the acquittal order, but the same has been upheld by the Appellate Court on 12.6.2012. A copy of order has

been placed on record as Annexure P2.

Counsel for the petitioners submits that the proceedings under Section 12 of the Protection of Women from Domestic Violence Act, 2005, can be filed within a period of one year from the date of the incident. In support of his contention, he relies upon **Inderjit Singh Grewal Vs. State of Punjab and another, 2011**

(4) RCR (Crl.) 1.

I have heard the counsel for the petitioners and carefully considered the contentions raised.

A perusal of the complaint indicates that the respondent-aggrieved wife has mentioned about all the proceedings pending between the parties besides mentioning that she has been compelled to live in a rented house. The relationship between the parties is still subsisting. A petition filed by the husband under Section 13 of the Hindu Marriage Act, is also stated to be pending.

Section 26 of the Protection of Women from Domestic Violence Act, 2005, reads as follow: -

“Relief in other suits and legal proceedings.—

(1) Any relief available under sections 18, 19, 20, 21 and 22 may also be sought in any legal proceeding, before a civil court, family court or a criminal court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act.

(2) Any relief referred to in sub-section (1) may be sought for in addition to and along with any other

relief that the aggrieved person may seek in such suit or legal proceeding before a civil or criminal court.

(3) In case any relief has been obtained by the aggrieved person in any proceedings other than a proceeding under this Act, she shall be bound to inform the Magistrate of the grant of such relief.”

A perusal of above said provisions indicates that the relief available under the provisions of the Protection of Women from Domestic Violence Act, 2005, may be sought for in addition to and along with any other relief that the aggrieved person may seek in other civil suit or legal proceeding before Civil or Criminal Court.

So far as the limitation of one year is concerned, the reliance of the petitioner on case **Inderjit Singh Grewal (supra)** is misconceived. In the said case the parties had obtained a decree of divorce and subsequently had launched proceedings under the Protection of Women from Domestic Violence Act, 2005. Though the proceedings were quashed for other reasons but it was never held as a rule of law that limitation of one year is applicable in the cases under the Protection of Women from Domestic Violence Act, 2005. Regarding condonation of delay the finding of the Court in the said case is reproduced hereinunder: -

“24.Submissions made by Shri Ranjit Kumar on the issue of limitation, in view of the provisions of Section 468 Criminal Procedure Code, that the complaint could be filed only within a period of one

year from the date of the incident seem to be preponderous in view of the provisions of Sections 28 & 32 of the Act 2005 read with Rule 15 (6) of the Protection of Women from Domestic Violence Rules, 2006, which make the provisions of Criminal Procedure Code applicable and stand fortified by the judgments of this Court in Japani Sahoo Vs. Chandra Sekhar Mohanty, 2007 (3) RCR (Crl.) 912 and Noida Entrepreneurs Association Vs. Noida and Ors., (2011) 6 SCC 508.

Besides this, this Court is of the opinion that the proceedings under Section 12 and other proceedings under the Protection of Women from Domestic Violence Act, 2005, can be contested by the petitioners by taking up all the pleas before the Magistrate. If any, adverse order is passed there is a provision of appeal against interim or any final order.

This petition under Section 482 Cr.P.C., is not maintainable. The same is dismissed with liberty to the petitioners to raise all the pleas before the Court concerned.

**(M.M.S.BEDI)
JUDGE**

**August 28, 2015.
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