

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

(127)

CRM-M-32973-2015

Decided on: September 28, 2015.

Jaspal Singh and others

.... Petitioners

Versus

State of Punjab and another

..... Respondents

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

Present: Mr. Ranjit Singh Ghuman, Advocate,
for the petitioners.

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

This is a petition under Section 482 Cr.P.C for quashing of complaint Annexure P-1 under Section 12 (i) of Protection of Women from Domestic Violence Act, 2005 for short “the Act” and the summoning order Annexure P-2 issuing notice to the petitioners.

Learned counsel for the petitioners has submitted that the proceedings against all the petitioners are not maintainable and that without application of mine, notice has been issued by Judicial Magistrate Ist Class, Amritsar to all the petitioners as respondents.

Counsel for the petitioners places reliance on **S.R. Batra and another Vs. Smt. Taruna Batra, 2007 (1) R.C.R. (Criminal) 403** claiming that the wife is not entitled to live in the house owned by mother of the husband and judgment in **Bhupinder Singh Mehra Vs. State NCT of Delhi and another, 2011 (2) R.C.R. (Criminal) 360** wherein the Delhi High Court had, in similar circumstances, directed the Metropolitan Magistrate to consider the contents of the application and find out whether the

respondents had any domestic relationship with the aggrieved person or that they fitted in the definition of “respondents” as given in Section 2(q) of the Act and then only issue notice to them.

After hearing learned counsel for the petitioners, I am of the considered opinion that all the pleas raised before this Court can be raised by the petitioners by filing reply to the application under Section 12 of the Act. Since it is not mandatory to appear personally in the proceedings, it would always be open to the learned Magistrate to consider the legal and factual pleas raised by the petitioners and arrive at a conclusion whether the aggrieved person is entitled to any relief under the provisions of the Act. If any adverse order is passed, it is always open to the respondents in proceeding under the Act to file an appeal.

In view of said circumstances, this petition is disposed of as pre-mature with liberty to the petitioners to raise all the pleas before the Court concerned in accordance with law.

(M.M.S. BEDI)
JUDGE

September 28, 2015
harsha