

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT  
CHANDIGARH**

**CRM No.M- 43247 of 2014(O&M)**

**Date of Decision: January 20, 2015.**

Hari Singh

..... PETITIONER (s)

Versus

Kuldeep Kaur and others

..... RESPONDENT (s)

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL**

Present: Mr. Arpandee Narula, Advocate  
for the petitioner.

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1. Whether reporters of 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?

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**LISA GILL, J.**

This petition has been filed for setting aside order dated 27.08.2014 passed by the learned Additional Sessions Judge, Panchkula as well as order 25.10.2013 passed by learned Sub Divisional Judicial Magistrate, Kalka in criminal case No.972/228-13 titled 'Hari Singh v. Kuldeep Kaur and others', under Sections 148/149/323/379/448/453/506/120B IPC.

It is alleged that respondent No.1, who is daughter-in-law of the petitioner, trespassed into his property by breaking open the locks of the house and on protest, he was manhandled and threatened with dire consequences.

Police has refused to lodge FIR against respondents No.1, 2 and 3 and the petitioner has filed the criminal complaint under Sections 148/149/323/379/448/453/506/120B IPC, which was dismissed on 25.10.2013 by the learned Sub Divisional Judicial Magistrate, Kalka (Annexure P2). Revision preferred by the petitioner was also dismissed by the learned Additional Sessions Judge, Panchkula on 27.08.2014 (Annexure P1).

It is submitted that the complaint has been wrongly dismissed as a separate offence of trespass was clearly made out, respondent No.1 having illegally entered into the premises under the garb of order dated 05.08.2013 (Annexure P4) passed by the learned Judicial Magistrate First Class, Samana. At best respondent No.1 could have filed for execution for the said order and restraint order against the petitioner would not entitle the respondent No.1 to occupy the portion marked EFGH. Learned courts below have wrongly ignored DDR No.24 dated 10.08.2013 and DDR No.15 dated 16.08.2013 as well as report dated 23.09.2013 under Section 202 Cr.P.C., which is sufficient to show the commission of offences by the respondents. Respondents No.1 to 3 are in connivance with the police and injustice is being meted out to the petitioner on account of the matrimonial discord between respondent No.1 and petitioner's son, Arvinder Singh. Furthermore, it is contended that application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as the 'Act') was dismissed on 14.08.2014 (Annexure P3) and hence, order dated 05.08.2013 merged with the said order and the possession of respondent No.1 becomes illegal. In this view of the matter, he states that complaint under Section 148/149/323/379/448/453/506/120B IPC

filed by him could not have been dismissed.

I have heard learned counsel for the petitioner and gone through the file.

It is an admitted position that on an application under Section 12 of the Act moved by respondent No.1 – Kuldeep Kaur, the learned Judicial Magistrate First Class, Samana on 05.08.2013 (Annexure P4) had directed the petitioner and his son not to restrain Kuldeep Kaur as well as the two minor children from using area marked EFGH out of the shared house and attached latrine and bathroom. It is verified by learned counsel for the petitioner that respondent No.1 alongwith her children occupied the said portion marked EFGH on 10.08.2013 though it is submitted that possession was taken forcibly. It is confirmed and verified by learned counsel for the petitioner that respondent No.1 alongwith her children are not in possession of any portion beyond that marked as EFGH.

There is no doubt that respondent No.1 came in possession of the portion of the house pursuant to order 05.08.2013, Annexure P4. There is thus no question of respondent No.1 trespassing on to the premises. She has rightly come into possession under specific court order. Allegations of house trespass and breaking open the locks of the house have been found incorrect by the Assistant Commissioner of Police, Kalka in his report dated 29.09.2013 though, as per report under Section 202 Cr.P.C., respondent No.1 was stated to have entered into the house by breaking open the locks whereas, the allegations of theft were found incorrect. It has been rightly held by learned Sub Divisional Judicial Magistrate, Kalka that the complainant has an alternate

remedy to move the concerned court at Samana and seek redressal. Filing of present complaint is nothing but an attempt at multiplicity of litigation.

Furthermore, respondent No.1 is admittedly the petitioner's daughter-in-law. There are two minor children aged 9 and 7 years, respectively. They are admittedly not in possession of any portion beyond that specified in order dated 05.08.2013.

Keeping in view the above, this petition is dismissed.

However, the petitioner is at liberty to avail alternate remedies as may be available to him.

January 20, 2015.  
'om'

**( LISA GILL )**  
**JUDGE**