

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.2459 of 2015 (O&M).
Decided on:-September 17, 2015.

Ritu and another

.....Petitioners.

Versus

Parveen and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

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

Argued by:- Ms. Savita Dhanda, Advocate
for the petitioners.

HARI PAL VERMA, J.

CRM-21387 of 2015

This is an application under Section 5 of the Limitation Act,
1963 for condonation of delay of 28 days in filing the revision petition.

For the reasons stated therein, the application is allowed and the
delay of 28 days in filing the revision petition is condoned.

Main Case

The petitioners have filed the present revision petition
challenging the judgment dated 5.3.2015 passed by learned Additional
Sessions Judge, Jind whereby the appeal filed by the petitioners against the
judgment dated 6.3.2014 passed by the Additional Chief Judicial Magistrate,

Jind, was dismissed.

Briefly stated, the petitioners had filed an application under Section 12 of the Protection of Women From Domestic Violence Act, 2005 (hereinafter referred to as the Act). The learned trial Court vide judgment dated 6.3.2014 had partly allowed the application and observed in concluding paragraph No.12 of the judgment as under:

“Keeping in view of the above discussion, the application for the petitioners is allowed partly to the extent that the respondents No.1 to 3 shall allow the petitioners to reside in the shared household by providing them a separate accommodation of one room set in the shared house with all amenities thereto and shall not cause any domestic violence. In case, the accommodation cannot be provided in the shared household then the respondents No.1 and 2 shall pay the rent to the extent of Rs.3,000/- per month for facilitating the petitioners to reside in a rental accommodation. It is ordered accordingly. Memo of costs be prepared accordingly and file be consigned to record room after due compliance.”

Dissatisfied with the aforesaid judgment dated 6.3.2014, the petitioners filed criminal appeal titled as “Ritu and another Versus Parveen and others” whereas the respondents had also filed the appeal titled as “Parveen and others Versus Ritu and another”.

Vide judgment dated 6.3.2014, learned Magistrate had partly allowed the application filed the petitioners to the extent that the respondents No.1 to 3 shall allow the petitioners to reside in the shared household by

providing them a separate accommodation of one room set with all amenities thereto and shall not cause any domestic violence. It was also made clear that in case the accommodation cannot be provided in the shared household then the respondents No.1 and 2 shall pay the rent to the extent of Rs.3,000/- per month to facilitate the petitioners to reside in a rental accommodation.

Learned counsel for the petitioners has contended that the impugned judgments passed by the Courts below are liable to be modified by awarding the petitioners the amount of maintenance as well as compensation as per the status and income of respondent No.1 and also to award rent as per the market value along with litigation expenses. But the learned Courts below have not considered this aspect. She has further submitted that the petitioners are also entitled for the grant of monetary relief from the date of filing of the application. She has further submitted that in the impugned judgment dated 6.3.2014, the trial Court had not specified the date from which the petitioners become entitled for the rent of Rs.3,000/- per month to reside in the rental accommodation.

I have heard learned counsel for the petitioners.

So far as the marriage between the petitioner No.1, namely, Ritu and respondent No.1, namely, Parveen is concerned, the same is not disputed. It is also not disputed that the petitioner No.1 along with petitioner No.2 Gagan Deep, who is minor son has shared the joint residence with the

respondents and the petitioners have filed a petition under Section 12 of the Act. The object of the new Act is to mitigate the sufferings of a woman. The use of domestic violence is essentially the issue of the personhood of woman, violation of her right to life and liberty.

Section 17 of the Act confers a right upon the women to reside in a shared household, which reads as under:

“17. Right to reside in a shared household – (1)
Notwithstanding anything contained in any other law for the time being in force, every woman in a domestic relationship shall have the right to reside in the shared household, whether or not she has any right, title or beneficial interest in the same.

(2) The aggrieved person shall not be evicted or excluded from the shared household or any part of it by the respondent save in accordance with the procedure established by law.”

Section 17 of the Act, thus, confers a right upon every woman in a “domestic relationship” to reside in the “shared household” and the only requirement is that a woman has to establish that she is in domestic relationship and the right sought to be enforced is against the shared household. The terms “domestic relationship” and “shared household” have also been further defined under Sections 2(f) and 2(s) of the Act which read as under:

“(f) “domestic relationship” means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity,

marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family.”

*“(s) “**shared household**” means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have an right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household.”*

Learned counsel for the petitioners has contended that as the petitioner has been shunted out from the matrimonial home despite the fact that after her marriage with the respondent No.1, she resided with the respondents in a shared holding. The respondents created compelling circumstances for the petitioner No.1 to live with her parents. Since she had no other option nor shelter except to stay with her parents, she had filed the application under Section 12 of the Act before the trial Court. After the marriage, the petitioner had been staying with respondent No.1 in a shared household before she was ousted from the matrimonial home. A marriage which is valid and subsisting on the relevant date automatically confers a

right upon a wife to live in a shared household as an equal partner in the joint venture of running a family. She is also entitled for a protection order under the relevant provisions of the Act.

Learned counsel for the petitioners has further contended that though the learned Magistrate had allowed the application of the petitioners to extent that respondents No.1 to 3 shall allow the petitioners to reside in one room set with all amenities and in case the accommodation cannot be provided, the petitioners are entitled rent to the extent of Rs.3,000/- per month to facilitate the petitioner to reside in a rental accommodation, but the learned Magistrate has not specified the date from which the rent become payable to the petitioners. The petitioner-wife is entitled for the rent for the reason that she has not stayed in the shared accommodation, rather, shared at her parental house. Therefore, she becomes entitled for the rent. In support of her contentions, learned counsel for the petitioners has relied upon ***Saraswati Versus Babu AIR 2014 Supreme Court 857.***

However, the perusal of the aforesaid judgment of the Hon'ble Supreme Court reveals that it has hardly any applicability in the peculiar facts and circumstances of the present case. In that case, the husband had not allowed the wife to share matrimonial house even after passing of the order by the Subordinate Judge, which was considered to be a domestic violence committed by the husband against the wife. But in the case in hand, the petitioner-wife is not residing in the shared household at matrimonial house.

Rather, she is staying in her parental house and as such, she cannot claim rent @ Rs.3,000/- per month for the period she remained in parents' house for the entitlement of the rent. In the absence of any specific date, presumption under law would be that the rent has been awarded from the date of passing of the order and not from the date of the application.

In view of the above, I find no merit in the present revision petition and the same is, accordingly, dismissed.

September 17, 2015
'Yag Dutt'

(HARI PAL VERMA)
JUDGE