

22

\$~R-86 & 87

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ (i) Crl. M.C. No. 2720/2012

TEJINDER KAUR & ORS.

..... Petitioners

Through: In person

versus

KAMALJIT KAUR & ANR.

..... Respondents

Through: Mr. Tarun Goomber, Mr. Pankaj Mendiratta and Mr. Saurabh Singh Ahluwalia, Advocates with Respondent No. 2 in person

+ (ii) Crl. M.C. No. 2755/2012

SUDERSHAN SINGH

..... Petitioner

Through: In person

versus

KAMALJIT KAUR & ANR.

..... Respondents

Through: Mr. Tarun Goomber, Mr. Pankaj Mendiratta and Mr. Saurabh Singh Ahluwalia, Advocates with Respondent No. 2 in person

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

%

13.03.2015

The above captioned two petitions are directed against the common impugned order of 6th April, 2010 vide which petitioners

Crl. M.C. No. 2720/2012

Crl. M.C. No. 2755/2012

Page 1

Signature Not Verified

Digitally Signed
By:AMULYA

have been summoned on the application under Sections 12 of the *Protection of Women from Domestic Violence Act, 2005* by the trial court, and so they were heard together and are being disposed of by this common order.

Petitioner(s) in Crl. M.C. 2720/2012 has chosen to argue both these petitions in person and has drawn the attention of this Court to the impugned order of 6th April, 2010 and submits that in view of the pertinent observations made by the trial court, there is no justification to summon petitioners in the complaint which on the face of it is not maintainable.

Attention of this court is drawn to the operative portion of the impugned order, which is as under:-

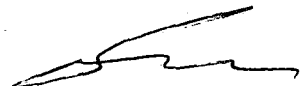
"Prima facie case is yet to be established whether applicant is victim of domestic violence or not. Moreover, the application of the applicant is without any supportive evidence. Hence at this stage I declined to grant the ex-parte interim relief to the applicant."

Upon hearing and on perusal of impugned order and the material on record, I find that the impugned order is unsustainable on the face of it because the trial court itself has opined that a prima facie case is yet to be established without any supporting documents and so, there is no justification to summon petitioners-

24

accused.

Consequently, impugned order of 6th April, 2010 is hereby quashed with liberty to the trial court to apply its mind afresh to respondent's complaint and thereafter decide as to whether petitioners are to be summoned as accused or not. It is made clear that this court has not made any observation on the merits of this case.


(SUNIL GAUR)
JUDGE

MARCH 13, 2015
rs