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HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 578 of 2016**

Smt. Khushbu Sharma W/o Harish Sharma Aged About 30 Years D/o Shankerlal Sharma R/o Laltanki Road, Ward No. 12 Kenwatapara Raigarh, P.S. - Raigarh Distt. - Raigarh Chhattsgarh

---- Petitioner**Versus**

1. Shiv Ratan Sharma S/o Late Ramdayal Sharma Aged About 56 Years R/o Near State Bank, Subhash Ward Bhatapara, P.S. Bhatapara Distt. - Baloda Bazar Chhattisgarh
2. Mohan Sharma S/o Late Ramdayal Sharma Aged About 55 Years R/o Near State Bank, Subhash Ward Bhatapara, P.S. Bhatapara Distt. - Baloda Bazar Chhattisgarh
3. Harish Sharma S/o Late Santosh Sharma Aged About 32 Years R/o Near State Bank, Subhash Ward Bhatapara, P.S. Bhatapara, Distt. - Balaudabazar Chhattisgarh
4. Kamla Devi W/o Late Santosh Sharma Aged About 59 Years R/o Near State Bank, Subhash Ward Bhatapara, P.S. Bhatapara Distt. - Balodabazar Chhattisgarh
5. Rashmi Sharma D/o Late Santosh Sharma Aged About 26 Years R/o Near State Bank, Subhash Ward Bhatapara, P.S. Bhatapara Distt. - Balodabazar Chhattisgarh

---- Respondents

For Petitioner : Mr. Bhupendra Singh, Petitioner

Hon'ble Shri Justice P. Sam Koshy**Order on Board****27.06.2016**

1. The present Revision Petition has been preferred against the order dated 14.03.2016 passed by the Second Additional Sessions Judge, Raigarh in Criminal Appeal No. 202000000932015.
2. The brief fact of the case is that the present Petitioner had

preferred a complaint before the Court of the Chief Judicial Magistrate, Raigarh which was registered as the Miscellaneous Criminal Case No. 443/2015 wherein the Chief Judicial Magistrate vide its order dated 27.10.2015 directed for registering the complaint and ordered for issuance of summons to the Respondents in the said case. Against the said order the Respondents No. 1 & 2 is said to have preferred an appeal before the Court of the Second Additional Sessions Judge, Raigarh. Upon hearing the parties wherein the present Petitioner was also heard, the Court below vide the impugned order dated 14.03.2016 held that the registration of the complaint case against the Respondents No. 1 & 2 was totally bad in law and allowed the Appeal to the extent that the registration of complaint order against Respondents No.1 & 2 stands cancelled.

3. Learned Counsel for the Petitioner submits that the impugned order passed by the Second Additional Sessions Judge is bad in law to the extent that it was not the stage where the Appeal should have been entertained by the Court below and the Court below ought to have appreciated the fact that the parties to the dispute should have been granted time to lead evidence and on the basis of the evidence it should have been proved whether the allegation made against the Respondents No. 1 & 2 was proper or not.

4. Learned Counsel for the Petitioner further argues that the Appellate Court had taken the cognizance of the appeal at a premature stage as the allegation attributed in the complaint, on the basis of which criminal case was registered, was yet to be put for evidence wherein

the Petitioner would have adduced all the evidences against Respondents No.1 & 2 to establish the case against them but without waiting for the evidences to be recorded, the Court below in mechanical manner has allowed the appeal.

5. Having considered submissions put forth by the Counsel for the Petitioner and perusal of the record which were placed before the Court below while disposal of the Appeal as well as in the present Revision Petition it would reflect that admittedly the Respondents No. 1 & 2 were not residing with the complainant nor have resided with the complainant at any point of time after she got married.

6. Now, on putting a specific query to the Counsel for the Petitioner, he fairly admits that in fact the Respondents No. 1 & 2 are staying separately and they are the maternal uncles of the husband of the complainant. The Counsel for the Petitioner however adds that the allegation leveled against the Respondents No. 1& 2 were true and for establishing the said allegation the Court below should have given time to the complainant to lead evidences.

7. Learned Counsel for the Petitioner submits that all cruelty, harassment and ill treatment committed by the husband of the complainant were at the instance of Respondents No. 1 & 2 who were acting as the guardian of her husband since her husband had lost his father very early and it is his maternal uncles who had taken care of the husband.

8. A perusal of the record would show that the Court below has

taken note of the definition of domestic relationship as defined under Section 2(f) of the Protection of Women from Domestic Violence Act, 2005 wherein it has been specifically held that 'domestic relationship' means relationship between two persons who live or have, at any point of time, lived together in a shared household. From a plain reading of the said definition it clearly indicates that for an offence to be made out under the said Act, there has to be a domestic relationship made out between the complainant and the so called accused persons. From the given facts of the case and also what has been submitted by the Counsel for the Petitioner and Respondents No. 1 & 2, it is clear that the Respondents No. 1 & 2 are staying in their respective houses. Further the record would also show that the Court below has aptly taken into consideration a judgment passed in the case of **Smt. P. Sugunamma and Others Vs. State of A.P. on Criminal Petition No. 8112 of 2012** while passing the impugned order.

9. Taking into consideration the facts and circumstances of the case, in the opinion of this Court no good ground has been made out by the Petitioner for interfering with the impugned order dated 14.03.2016.

10. Accordingly, the Criminal Revision being devoid of merit, the same is dismissed.

Sd/-

(P. Sam Koshy)
JUDGE