

CRM-M-14455-2013 (O&M)
with
CRM-M-22867-2013 (O&M)

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

**CRM-M-14455-2013 (O&M)
Date of Decision: 05.09.2016**

Balbir Kaur

...Petitioner

Versus

Navjit Kaur @ Nasib Kaur and another

...Respondents

with

CRM-M-22867-2013 (O&M)

Swaran Singh

...Petitioner

Versus

Navjit Kaur @ Nasib Kaur and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

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? No

Present: Mr. Ashok Bhardwaj, Advocate
for the petitioner(s).

Mr. S.S. Joshi, Advocate
for respondent no.1.

ANITA CHAUDHRY, J.

Two separate petitions under Section 482 Cr.P.C. have been filed assailing the judgment dated 20.04.2013, passed by the Additional Sessions Judge, Sangrur and the judgment dated 04.08.2010, passed by Judicial Magistrate Ist Class, Malerkotla.

The essential facts need to be detailed first. Navjit Kaur wife of Swaran Singh filed a complaint under the Domestic Violence Act (here-in-after referred to as the D.V. Act) against her husband and her mother in law. She was married in February, 1994. The complaint was filed in 2009. Allegations were levelled that her parents had given sufficient dowry and all gold articles were in possession of the in-laws and she had been thrown out of the house as she could not conceive and the in-laws were not satisfied with the dowry. It was pleaded that a divorce petition was filed by the husband which was dismissed in 2009 and she was living with her father. It was pleaded that respondent no.1 was threatening to withdraw all his retiral benefits and she had no source of income and claimed different reliefs. The respondent took the plea that their marriage was simple and no dowry was given and she was never turned out of the house and the complainant wanted Swaran Singh to leave the army service and live separately from his family and he did not agree and the applicant left their house in March, 2002 without his consent and against his wishes and appeal had been filed against the dismissal of the divorce petition was pending.

Both the parties led evidence and thereafter, the trial Court granted the following reliefs:-

“A. Under Section 18 subsection 'a' and 'b' Protection of Women from Domestic Violence Act, 2005 both respondents are restrained from committing any act of domestic violence and aiding or abetting in the commission of acts of domestic violence.

B. Under Section 19, 'f' of Protection of Women from Domestic Violence Act, 2005, respondents are directed to secure some level of alternate accommodation for applicant as enjoyed in her or to pay rent for the same (as respondent no.1 has refused to keep her in his house or any other house).

C. Under Section 19(5) of Protection of Women from Domestic Violence Act, 2005, concerned SHO is directed to give protection to applicant.

D. Under Section 20(6) of Protection of Women from Domestic Violence Act, 2005, let direction be issued to employer of respondent no.1 to directly pay to applicant Rs.5000/- (Rupees five thousand only) per month out of his salary. Copy of this order by underlining these points be issued to the employer of respondent no.1.

E. Under Section 22 of Protection of Women from Domestic Violence Act, 2005, respondents are directed to pay Rs.25,000/- for causing mental torture and emotional distress to applicant. This payment in lump-sum be made to applicant within one month of this order.

Application stands disposed of with above mentioned orders. Let copies of this order be supplied today itself to both parties, concerned SHO and Protection Officer also, free of costs as required under Section 24 of Protection of Women from Domestic Violence Act, 2005. File be consigned to record room, Malerkotla.”

Aggrieved by the order an appeal was preferred by Swaran Singh and by his mother, which was dismissed on 20.04.2013. No appeal was preferred by Navjit Kaur.

Swaran Singh along with his mother has filed this petition seeking quashing of the order. He is basically aggrieved since the SHO of Police Station Amargarh, Malerkotla was compelling the petitioner to provide accommodation in his house. It was pleaded that the complaint had not been filed within a period of one year from the date of incident and the parties were living separately for 14 years and no incident had taken place.

I have heard the submissions made by counsel of both the sides.

Counsel for the petitioner(s) had urged that in terms of the orders passed by the Court below, a property was taken on rent and they were paying the rent but Navjit Kaur had never come to stay in that house and the property is lying locked and she is living with the parents. It was urged that they had complied with all the directions except payment of Rs.25,000/- as ordered by the Court below and they would deposit the same as directed. It was urged that there were directions to pay Rs.5,000/- per month as maintenance and the Army Authorities were deducting 22% of the salary which comes to more than Rs.5,500/- per month. It was urged that under the garb of the order, the respondent-wife has approached the SHO of Police Station Amargarh, Malerkotla, who is compelling them to provide accommodation in their house.

The submission on the other hand was that there were directions to pay Rs.5,000/- per month as maintenance and the Army Authorities under a separate rule were deducting the amount from the salary and the order passed by the Court below had not been complied with.

It is not in dispute that the parties are living separately for the last over 14 years. No appeal or revision was filed by the wife. The petitioners against whom the order was passed by the Court below have not challenged the findings. They are ready to comply with the order which also requires them to deposit Rs.25,000/-. The amount was to be deposited within one month from the date of order and should have been complied with. The petitioners are directed to deposit that amount within one month before the trial Court. The Court will give notice to the complainant and the amount can be withdrawn by the respondent.

Annexure P-4 placed on record by the petitioners show that an order has been passed by the Army Authorities. These rules, provide for maintenance and 22% of the salary is being transferred to Navjit Kaur from May, 2002. The amount deducted is more than Rs.5,500/- per month. The petitioners have not disclosed the house that was taken on rent for the wife. The respondent (wife) does not dispute that she is living with her parents. The directions given in para no.9(b) have to be complied within letter and spirit. The petitioner (husband) has to arrange an alternative accommodation or pay rent for the same to respondent-wife. If the respondent is not residing in the rented accommodation taken by them, the petitioner (husband) has to comply with the alternative

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condition i.e. deposit/pay the rent to the respondent. I see no infirmity in the findings. Both the petitions are dismissed.

(ANITA CHAUDHRY)
JUDGE

05.09.2016

'Sunil'