

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

**Crl. Misc. No.M-21489 of 2014 (O&M)
Date of decision : 12.08.2016**

Ashok and others

.....Petitioner(s)

Versus

Renu

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Kunal Dawar, Advocate
for the petitioners.

Mr. B.S. Tewatia, Advocate
for the respondent.

ANITA CHAUDHRY, J.

This petition under Section 482 Cr.P.C. is for quashing of the complaint titled as 'Renu Vs. Sanjay and others' filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short Act) as well as the order dated 12.08.2016 (Annexure P-3).

Counsel for the petitioners contends that the petitioners are the two brother in laws and wife of one of the brother in law who had been summoned in a complaint filed under the Domestic Violence Act. It was urged that the marriage took place in 2008 and the complainant did not want to stay in the matrimonial home and the brother of petitioners no.1 & 2 started residing separately in a rented accommodation. It was urged that there were quarrels on small issues and the complainant left the matrimonial

home on 23.03.2012 but after a compromise she returned but again left the matrimonial home on 17.12.2012. It was urged that the husband of the complainant had filed a petition for Restitution of Conjugal Rights. It was urged that a complaint was given by the complainant to the police and same allegations which were made in the complaint were made in the complaint given to the police but no FIR was lodged and thereafter, a complaint was filed in the Court and only the husband was summoned. It was urged that not satisfied, a complaint under the Domestic Violence Act was filed levelling the same allegations and the Court has now summoned them. It was urged that the complainant had the remedy to file an application under Section 319 Cr.P.C. and could not file and agitate the same issues in different complaints. Reliance was placed upon ***Ashish Dixit and others Vs. State of U.P. and another 2013(2) SCC (Cri) 337 and Sachin Sharma and others Vs. Radhika Sharma 2013(2) RCR (Criminal) 817.***

The submission on the other hand was that the order of summoning had been challenged by the complainant and revision has not been decided till date. It was urged that there are allegations against the petitioners and all evidence has been led before the Court below.

After hearing the counsel for the parties, I am of the view that the instant petition deserves to be allowed. Vide order dated 01.07.2014 further proceedings qua the petitioners had been stayed in the present case. The complainant had given a complaint to the police. No FIR was registered. Thereafter, a complaint was filed before the Magistrate and preliminary evidence was recorded. The trial Magistrate summoned the report under Section 202 Cr.P.C. and had only summoned the husband.

Both the complaint filed under the Domestic Violence Act and the

complaint filed before the Magistrate contains similar allegations as against the petitioners. In these circumstances, considering the principles laid down in *State of Haryana Vs. Bhajan Lal 1991(1) RCR (Criminal) 383* continuation of the proceedings against the petitioners who are the relatives of the husband, would be nothing but an abuse of the process of law. The petition is allowed. The complaint under the Domestic Violence Act and all the consequential proceedings arising therefrom qua the petitioners are quashed. The complainant had a remedy to file application under Section 319 Cr.P.C. and could not file and raise same allegations against the petitioner. The trial Court would strictly decide the case on merits without being inhibited or influenced by any observations made herein.

12.08.2016

Sunil

**(ANITA CHAUDHRY)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No