

In the High Court of Punjab and Haryana at Chandigarh

**Criminal Revision No. 2334 of 2016
Date of Decision: 20.10.2016**

Seema

....Petitioner

Versus

Bharat Singh

....Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Anmol Verma, Advocate
for the petitioner.

ANITA CHAUDHRY, J(ORAL)

Petitioner-Seema has questioned the order dated 2.5.2016 passed by the Additional Sessions Judge, the appeal filed by the father-in-law has been remanded back to the trial Court to decide the matter afresh.

The backdrop of the case is essential.

Seema was married to Sunil Kumar. Sunil Kumar went abroad. A complaint under the Domestic Violence Act was filed against the husband and the in-laws. A prayer for maintenance was made and residence order was prayed. Father-in-law made a statement on 6.11.2013 that considering the complaints given by the daughter-in-law it was difficult for them to stay with her and they had no legal responsibility but accepting the moral responsibility, he was ready to pay for her rent. Seema made a statement that she was ready to accept Rs. 5,000/- per month from respondent No. 2 in lieu of her residence plea and she would have no objection if the

respondents met her child. The father-in-law filed an application seeking alteration of the order giving his reasons for withdrawal. The Magistrate dismissed that application.

Aggrieved by the order, an appeal was filed by Bharat Singh. The Additional Sessions Judge remanded the matter back to the trial Court to decide the application filed by the complainant on merits. It noted that the plea taken by Bharat Singh was that he was not legally bound to make the payment in view of the supervening circumstances and Seema had created hurdles in their meeting the child and she had used filthy language and was ready to fight and create nuisance and they did not intend meeting the grandchild and prayed for an order from the Court on merits.

The case has been remanded and the Magistrate has now been asked to determine as to whether the daughter-in-law had a legal right to ask for maintenance or right to residence in the house admittedly belonging to the in-laws.

Counsel for the petitioner urged that the matter could not have been remanded back as the father-in-law had agreed to an arrangement and the Magistrate had dismissed their application for alteration and she had created no hurdles. It was urged that the petitioner is an 'aggrieved person' as defined in the Domestic Violence Act and she has been turned out of the shared household and she was legally entitled to claim rent from the in-laws. Reliance was placed on ***Hema Rawal and another versus Prashant Sharma 2015(Suppl.) Civil Court Cases 060 (P&H).***

It is not disputed that the house is owned by the in-laws. On a concession given by the father-in-law of offer for payment of rent, an amount was allowed. The petitioner had stated that she would have no

objection if the grandparents met her child. Thereafter an order of payment of Rs. 5,000/- towards rent was made. It appears that some differences arose and the grandparents could not meet the child and the father-in-law approached the Court seeking alteration of the order and pleaded that since the petitioner had not allowed them to meet the grand-child, therefore, she was not entitled to receive any amount. The stand taken by the petitioner before the Court was that she had never refused and they could not be allowed to go back from their statement. The trial Court while dismissing the application noted as under:-

“During trial it transpired that master Arpit is of tender age and because of his tender age he is hesitating to join the company of their grand parents. Though there is no hurdle from the side of complainant i.e. mother. Master Arpit @ Abhi is residing with her mother since her birth. Hence, since the child is of tender age, he could not be compelled to join the company of his grandparents. Because of tender age, Master Arpit @ Abhi is not in a position to accommodate his grandparents. Since there is no denial on the part of the complainant. Accordingly, there is no need to alter order dated 8.11.2013 particularly when there is no objection from the side of complainant i.e. mother.”

The above would show that the trial Court had not examined the issue legally. The Additional Sessions Judge has only remanded the matter back and the trial Court has to examine whether the daughter-in-law can claim maintenance and residence from them.

I find no illegality in the order of remand. The issue is to be

examined by the trial Court on merits. It would not be appropriate to say anything more, lest it may prejudice either party.

The petition is dismissed in limine.

(ANITA CHAUDHRY)
JUDGE

October 20, 2016
Gurpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No