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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 516/2016 & CrI.M.A. No.2135/2016**

Date of Decision: February 08, 2016

RUBY SHUKLA PETITIONER

Through Ms.Smriti Sinha, Adv. with
Ms.Vidhi Gupta, Adv. &
Ms.Vasundhara, Adv.

versus

SONIL TRIVEDI & ORS RESPONDENTS

Through Nemo.

CORAM:
HON'BLE MR. JUSTICE P.S.TEJI

O R D E R

P.S.TEJI, J (Oral)

CrI.M.A. No.2135/2016

1. Exemption allowed subject to just exceptions.

CRL.M.C. 516/2016

2. The present petition has been preferred by the petitioner under Section 482 read with Section 483 of the Code of Criminal Procedure, 1973, seeking inter alia quashing of the order dated 10th December, 2015 passed by learned Additional Sessions Judge/Special Judge (CBI) and the order dated 25th July, 2014 passed by the learned Metropolitan Magistrate.

3. The facts giving rise to the present petition are within the narrow compass and to the extent necessary, noted hereinafter. The marriage between the petitioner and respondent no.1 was solemnized on 1st December, 2009 as per Hindu rites and customs. According to the petitioner, all marriage functions were held in a five star hotel of Kanpur and a large amount of money was spent not only on gifts and jewellery but also in fulfilling the other demands of respondents, by the parents of the petitioner. Learned counsel for the petitioner has submitted that despite fulfilling all demands, the petitioner was misbehaved and insulted by the respondents for not bringing sufficient dowry.

4. Aggrieved by the domestic violence alleged to have been perpetrated on the petitioner by her husband and other family members who are arrayed as respondent nos.2 to 4 herein, the petitioner filed a complaint registered as CC No.273/2/2014 dated 22nd July, 2014 under Section 12 of the Protection of Women from Domestic Violence Act, 2005, against them before the learned Metropolitan Magistrate. As per the petitioner, the reply stated to have been filed by the respondents, was vague and not tenable in the eyes of law.

5. Learned counsel for the petitioner has next submitted that the learned Metropolitan Magistrate passed an order dated 25th July,

2014 without taking into consideration the procedure established by law and only issued process against the husband (respondent no.1 herein) holding that no domestic relationship existed between the petitioner and other family members who were arrayed as respondents.

6. The petitioner preferred an appeal dated 27th September, 2014 under Section 29 of the Domestic Violence Act before the learned Additional Sessions Judge, challenging the order dated 25th July, 2014 passed by the learned Metropolitan Magistrate, to the extent of issuance of process against the respondent/husband only for committing an assortment of domestic violence, as according to the petitioner, she was subjected to cruelty and violence by all the respondents.

7. Learned counsel for the petitioner has further submitted that in order to further aggravate the agony of petitioner, the respondents had filed a petition being WP (Crl.) No.812/2015 before this Court seeking quashing of FIR No.18/2015 registered at the behest of petitioner under Sections 498-A/406/120B of the Indian Penal Code, wherein the respondents had alleged that the petitioner is in a live-in relationship with the husband of respondent no.2 herein and that the said allegation had also been used by respondent nos.2 & 3 in civil suit which is pending

adjudication.

8. It is the case of the petitioner that vide impugned order dated 10th December, 2015, the learned Additional Sessions Judge, has erroneously dismissed the appeal of the petitioner without taking into consideration the pleas raised by the petitioner.

9. Learned counsel for the petitioner relies on the judgment passed by Hon'ble Supreme Court in ***Sou. Sandhya Manoj Wankhade v. Manoj Bhimrao Wankhade & Ors.*** in CrI.Appal No.271/2011 on 31st January, 2011 to the extent that an interpretation of Section 2(q) of Domestic Violence Act, 2005, shows that the female relatives of the husband or male partner are not excluded from the ambit of a complaint that can be made under the provisions of the Domestic Violence Act, 2005. In support of his contention, learned counsel for the petitioner relies on paras 11 to 15 of the judgment, which read as under:-

“11. Having carefully considered the submissions made on behalf of the respective parties, we are unable to sustain the decisions, both of the learned Sessions Judge as also the High Court, in relation to the interpretation of the expression "respondent" in [Section 2\(q\)](#) of the Domestic Violence Act, 2005. For the sake of reference, [Section 2\(q\)](#) of the above-said Act is extracted hereinbelow :-

"2(q). "respondent" means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act:

Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner."

12. From the above definition it would be apparent that although [Section 2\(q\)](#) defines a respondent to mean any adult male person, who is or has been in a domestic relationship with the aggrieved person, the proviso widens the scope of the said definition by including a relative of the husband or male partner within the scope of a complaint, which may be filed by an aggrieved wife or a female living in a relationship in the nature of a marriage.

13. It is true that the expression "female" has not been used in the proviso to [Section 2\(q\)](#) also, but, on the other hand, if the Legislature intended to exclude females from the ambit of the complaint, which can be filed by an aggrieved wife, females would have been specifically excluded, instead of it being provided in the proviso that a complaint could also be filed against a relative of the husband or the male partner. No restrictive meaning has been given to the expression "relative", nor has the said expression been specifically defined in the [Domestic Violence Act, 2005](#), to make it specific to males only.

14. In such circumstances, it is clear that the legislature never intended to exclude female relatives of the husband or male partner from the ambit of a complaint that can be made under the provisions of the [Domestic Violence Act, 2005](#).

15. In our view, both the Sessions Judge and the High Court went wrong in holding otherwise, possibly being influenced by the definition of the expression "respondent" in the main body of [Section 2\(q\)](#) of the aforesaid Act."

10. I have heard learned counsel for the petitioner at length. I have carefully gone through each and every allegation levelled by the petitioner in her petition against the respondents and perused the available records. I have also the judgment ***Sou. Sandhya Manoj Wankhade (supra)*** relied upon by learned counsel for the petitioner.

11. It transpires from the record that there are no specific allegations against the other respondents. It is also an admitted fact that the marriage between the petitioner and respondent no.1 was solemnized on 1st December, 2009 and as the respondent no.1 was residing in United States even prior to their marriage, on 12th December, 2009, they left for United States. During that interlude of ten days, the petitioner resided only for a period of seven days at her in-laws home at Kanpur with respondent nos.2 to 4. It was also alleged that the petitioner also visited Tirupati

Temple and stayed in a hotel and also went for Pagphere Rasam at her parental house and stayed there which clearly establishes that petitioner's stay at her matrimonial home was temporary, which would not establish domestic relationship in shared household. Thus, the matrimonial home/shared house of the petitioner and respondent no.1 was in the United States. Hence, as per the provision of Section 2(f) of Domestic Violence Act, 2004, there was no sharing of domestic relationship between the petitioner and respondent nos.2 to 4. Section 2(f) of Domestic Violence Act, 2005 reads thus:-

“2(f) “domestic relationship” means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or any family members living together as a joint family.”

13. The learned Additional Sessions Judge, vide his order dated 10th December, 2015, has rightly held that there is nothing on record to show that the appellant ever intended to share the domestic relationship either with the respondent no.2 Manju Trivedi or respondent no.3 Geetika Trivedi and respondent no.4 Monika Trivedi, as the husband was settled in USA and the petitioner was aware that she also had to stay at USA after

marriage and not at Kanpur. The learned ASJ has further rightly held that stay of the petitioner at Kanpur was for a very limited period and from the said stay itself, it could not be inferred that the petitioner had shared domestic relationship with the respondent no.2-Ms.Manju Trivedi and similarly stay of the petitioner with respondent nos.3 & 4 in Delhi was not said to be sufficient enough to draw the conclusion that the petitioner intended to share the domestic relationship with respondent nos.3 & 4 at Delhi.

14. In the facts and circumstances mentioned above, I do not find any infirmity in the order dated 10th December, 2015 passed by learned Additional Sessions Judge/Special Judge (CBI) and the order dated 25th July, 2014 passed by the learned Metropolitan Magistrate.

15. Consequently, the present petition is dismissed.

(P.S.TEJI)
JUDGE

FEBRUARY 08, 2016
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