

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.20358 of 2014

Arising Out of PS.Case No. -68 Year- 2013 Thana -DOMESTIC VIOLENACE District- PATNA

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Nandani Basavaraju, W/o Aditya Juwala, Tech Mahindra Lt., Sarda Centre, Pune, Maharashtra, Off Karve Road Pune, Presently residing at BT PLC Anandale House 1, Hansorth Road, Sunburry on Thames Middlesex TW 16 5DJ, U.K.

.... Petitioner

Versus

1. State of Bihar
2. Sadhana Kumari, W/o Pankaj Kumar Rastogi, daughter of Jay Prakash, resident of Raghunath Path, R.P.S. More, P.S. Danapur, District Patna, Presently residing at Mohalla Rajabanshi nagar Road No. 5, Quarter No. 221/400 P.S. Sashttrinagar, District Patna.

.... Opposite Parties

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Appearance :

For the Petitioner	:	Mr. Jai Vardhan Narayan, Advocate
		Mr. Sarvendra Kr. Verma, Advocate
For the State	:	Dr. Indihar Kumari, APP
For O.P. No.2	:	None

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 15-11-2017

Heard learned counsel for the petitioner as well as learned counsel for the State. Despite adjournment for appearance of opposite party no.2, none appeared on her behalf even today.

2. The petitioner seeks quashing of the entire proceeding against the petitioner in Domestic Violence Case No.68 of 2013 pending in the court of learned Chief Judicial Magistrate, Patna.

3. A brief fact giving rise to the case is that opposite party no.2 filed Domestic Violence Case No.68 of 2013 in the court of learned Chief Judicial Magistrate, Patna alleging therein that she was married to one Pankaj Kumar Rastogi, a Software Engineer employed in Tech Mahindra and presently posted at Sunburry, London, U.K. in the year 2010 and she started living with her husband in London. The petitioner,



respondent no.17 in the complaint, a co-employee of her husband in the same organization, also used to live in the same house. Husband used to spent all money upon the petitioner and they were in live-in relationship and illicit relationship caused mental torture and agony to the complainant, they hatched up a conspiracy and sent back the complainant to India on the pretext of pursuing higher education in India. The husband of the complainant has no any attachment with her so used to ignore and in fact deserted her. Even during her stay in London, her husband also used to make demand of money from her parents and leading adulterous life with this petitioner having illicit relationship. Other family members keeping her jewelleries and other articles also kicked out from the matrimonial home.

4. Learned counsel for the petitioner submits that it is an admitted position that the petitioner is a married lady, she resides with her husband and only allegation is that she being a Software Engineer is employed in Tech Mahindra as the husband of the complainant is and both were living in the same house. However, the allegation of living together or live-in relationship or illicit relationship is outrightly denied and now presently the petitioner resides in United States of America with her husband posted in another company. It is also submitted that petitioner was never in domestic relationship with the complainant and her husband rather she is stranger to the family, only a colleague of the complainant's husband. If any person being in domestic relationship commits domestic violence only in that case a proceeding under the



Domestic Violence Act is maintainable otherwise not.

5. Learned counsel for the State submits that the allegation is specific against the petitioner that she shared the house in London along with the complainant's husband and were in live-in relationship.

6. Having considered rival submissions and on perusal of record, first let us examine whether the petitioner is in domestic relationship with the complainant or her husband. This is admitted position that she is not a family member of the husband of the complainant, even not related either by consanguinity or marriage as she is already married with another person. The terms 'aggrieved person' and 'domestic relationship' as well as the 'respondent' are defined in Section 2(a) (f) and (q) of The Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as 'the Act'). The definitions are as follows:

"2(a) "aggrieved person" means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;

(b).....

(c).....

(d).....

(e).....

(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 are family members living together as a joint family;

(g).....

(h).....

(i).....

(j).....

(k).....

(l).....

(m).....

(n).....



(o).....

(p).....

(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;”

7. In view of Section 3 of the Act, any act omission or commission or conduct of the respondent constitute domestic violence, in other words only with respect to the ‘respondent’, a proceeding of domestic violence can be initiated and not against others. The respondent as defined in Section 2(q) of the Act means any adult or male person who has been in ‘domestic relationship’ with the aggrieved person and against whom complainant or aggrieved person seeks any relief under this Act. The provision of this Section also further clarifies that an aggrieved wife or a female member living in a relationship in the nature of a marriage can also file a complaint against relative of the husband or the male partner, so the respondent requires to be in domestic relationship with the complainant-wife or any female member alleging domestic violence. ‘Domestic relationship’ means a relationship between two persons, who live at present or have lived together at any point of time in a shared household but the condition is that they must be related by consanguinity, marriage or through relationship in the nature of marriage, adoption or they should be family members living together as a joint family. The aggrieved person is also defined besides respondent by Section 2(a) of the Act and according to the said definition, aggrieved



person means complainant must be in a ‘domestic relationship’ with the respondent alleging any act of domestic violence by respondent. The fact, as stated in the complaint itself, explicitly discloses that the petitioner is not related either with the complainant or with her husband by consanguinity, marriage or through a relationship in the nature of marriage or adoption, so not even a member of the joint family of the complainant’s husband rather she is a co-employee of the husband of the complainant moreover she was also already married, so apparently there is no domestic relationship between the petitioner and the complainant, therefore, the allegations levelled against the petitioner do not come within the purview of domestic violence, so the entire proceeding of Domestic Violence Case No.68 of 2013 pending in the court of learned Chief Judicial Magistrate, Patna only with respect to Nandani Basavaraju, the petitioner, is hereby quashed.

8. The quashing application stands allowed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	AFR
CAV DATE	NA
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