

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

**Crl. Misc. No. M-24086 of 2017
Date of Decision : July 12,2017**

Veena Goyal & another..... Petitioners

VERSUS

Nirmala Devi Respondent

CORAM : HON'BLE MRS. JUSTICE LISA GILL

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?
- ...

Present: Mr. Arun Jindal, Advocate
for the petitioners.

...

LISA GILL, J. (Oral)

This petition has been filed for setting aside order dated 16.05.2017 passed by the learned Judicial Magistrate 1st Class, Sunam.

The facts of the case are that Complaint No. 50 dated 22.07.2013 under the Protection of Women from Domestic Violence Act, 2005 filed by respondent No.1 is pending before the learned trial Court. Respondent No.1-Nirmala Devi is the mother-in-law of the petitioners.

The present petitioners filed CRM-M-9471 of 2017 for quashing of complaint No.50 dated 22.07.2013 filed by their mother-in-law as well as the summoning order dated 23.02.2017. The said petition was

petition and reads as under:-

“Prayer in this petition is for quashing of complaint No. 50 dated 22.07.2013 under Section 31 and 32 of Protection of Women from Domestic Violence Act, 2005, rule 15 of 2006 for enforcement of order dated 28.02.2012 and summoning order dated 23.02.2017.

Learned counsel submits that petitioners were not parties in the original complaint. Neither the petitioners nor their husbands tried to grab the property of Nirmala Devi. In fact, it was Rajesh Kumar who wanted to grab the entire property of Nirmala Devi. This petition at this stage is being disposed of keeping in view the age of the petitioners and the fact that petitioner No. 1 is suffering from cancer.

In the meantime, the personal appearance of the petitioners is exempting before the trial Court, subject to the following conditions:-

- (i) petitioners shall be represented through counsel;*
- (ii) shall not delay/stall the trial proceedings;*
- (iii) shall not dispute their identity as an accused;*
- (iv) shall have no objection if the prosecution evidence is recorded in their absence but in the presence of their counsel;*
- (v) shall appear before the trial Court as and when required by the trial Court; and*
- (vi) any other condition which the learned trial Court may impose.*

Further the trial Court is directed to refer the matter to Mediation Centre at Sangrur for an amicable settlement.”

The matter was thereafter referred to the Mediation Centre, Sangrur pursuant to the direction of this Court. The parties appeared before the Mediation Centre, Sangrur. However, the matter could not be settled and was returned to the learned trial Court. It is to be noted that the complainant

preferred CRM-M-30606 of 2016 for the issuance of a direction to the learned trial Court for expeditious disposal of the above said complaint. The Court on 30.01.2017 directed learned trial Court to conclude the proceedings within a period of two months from the date of receipt of a certified copy of the order. Order dated 30.01.2017 reads as under:-

“The present petition is for issuance of direction to the Court of learned Judicial Magistrate 1st Class, Sunam for expeditious disposal of Execution/Complaint No. 50 of 22.07.2013.

The precise grievance of petitioner is that above said execution is pending since 2013 and on the last date of hearing i.e. on 04.10.2016, the evidence of the petitioner has also been recorded and the case is now fixed for 03.02.2017.

Keeping in view the age of the petitioner and the fact that the respondents were restrained from interfering in the family affairs and causing any physical loss, injury or any kind of violence upon the petitioner, which the respondents were not complying, this petition is disposed of with a direction to learned Judicial Magistrate 1st Class, Sunam to conclude the proceedings, within a period of two months from the date of receipt of certified copy of this order.”

In view of the facts and circumstances of the case, learned Judicial Magistrate 1st Class, Sunam, sought extension of three months for disposal of the case.

It is submitted that the petitioners preferred CRM-11852 of 2017 in CRM-M-9471 of 2017 after failure of mediation for referring the matter again to the Mediation Centre or to call the parties for settlement of

the dispute before this Court. The said application was dismissed on 18.04.2017. Order dated 18.04.2017 as reproduced in para 3 of this petition reads as under:-

“After perusal of the case file, it has been found that Judicial Magistrate Ist Class, Sunam on 23.3.2017 sought three months' more time for disposal of the case.

A perusal of the order dated 20.3.2017 passed in CRM-M-9471-2017, no time for conclusion of mediation was granted by the Court.

On the other hand, petitioners have filed the present application for referring the matter to Mediation Centre of this Court. Application is dismissed with the observation that Judicial Magistrate Ist Class can be given extension of three months' time for mediation of the case.

With the said observation, present application is disposed of.”

Thereafter, an application was moved before the learned trial Court by one of the accused praying that the case be again sent for mediation. It appears that the said application was not moved by the present petitioners. Learned counsel for the petitioners is unable to clarify the factual position in this respect.

Be that as it may, in the reply filed by the complainant to the said application it is specifically averred that the matter could not be amicably settled and there is no question or requirement of sending the case for further mediation. It is in this situation that the learned trial Court finding no justification to refer the matter again to the Mediation Centre dismissed the application. Contention raised by learned counsel for the

petitioner that the impugned order is violative of the orders passed by this Court in CRM-M-9471 of 2017 is not tenable, hence rejected.

In view of the specific stand taken by the complainant, I do not find any illegality, infirmity or perversity in the impugned order dated 16.05.2017 passed by the learned Judicial Magistrate 1st Class, Sunam. Consequently, this petition is dismissed.

12.07.2017
rupi

(LISA GILL)
JUDGE

Note: Whether speaking/reasoned

Yes / No

Whether Reportable:

Yes / No