

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

**CRM-M- 45099-2017
Date of decision: 29.11.2017**

Rajesh

...Petitioner

Versus

Renu & others

...respondents

Present: Mr. Sushil Jain, Advocate
for the petitioner.

JAISHREE THAKUR, J. (Oral)

1. The present petition has been filed under section 482 Cr.P.C. seeking to challenge the impugned orders passed by Additional Sessions Judge as well as by the JMIC, Sonapat allowing maintenance to the respondent under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (*for short 'DV Act'*).

2. In brief, the facts are that Renu daughter of Sh. Krishan Chand filed an application under Section 12 of the DV Act before the Chief Judicial Magistrate, Sonapat stating therein that she had solemnized the marriage with Rajesh Kumar (the petitioner herein) on 09.12.2010 as per Hindu rites at which time her father had given sufficient dowry. After marriage, she remained in her matrimonial home but was subjected to harassment and torture on account of bringing inadequate dowry. There was a demand for a motorcycle which was given but there was no change in the behaviour of her husband and in-laws, and eventually she was turned out of her matrimonial home. Relief of maintenance for a sum of Rs. 25,000/- per month was sought as well as residential accommodation in her matrimonial

home. Reply was filed and the matter was contested on interim relief. It was argued that the complainant wife left the matrimonial home of her own accord and that she is an educated and qualified person teaching in the school and, therefore, would not be entitled to any relief. It was submitted that as per the affidavit filed, she was earning Rs. 6,000/- per month which was more than what was earned by the petitioner. It was argued that as per the salary certificate issued, the petitioner was working under gross salary of Rs. 4,000/- per month. The JMIC allowed the application for interim maintenance and ordered the petitioner herein to pay Rs. 1,500/- per month to the respondent as maintenance allowance from the date of application and further directed him to provide a separate room to the respondent in the matrimonial home or to pay Rs. 1,000/- per month as rent. A revision petition was filed by the petitioner which was dismissed upholding the orders of the trial Court. Aggrieved against the orders of both the Courts below, the instant petition has been filed.

3. Mr. Sushil Jain, learned advocate appearing on behalf of the petitioner, contends that both the Courts below have erred in allowing maintenance and rent to the respondent-complainant. It is urged that as per the salary certificate, the petitioner is earning only Rs. 4,000/- per month whereas the affidavit furnished by the respondent complainant would reflect that she is earning Rs. 6,000/- per month as a teacher. It is also urged that in proceedings under Section 498-A IPC, the petitioner stands acquitted and, therefore, there was no domestic violence on the part of the petitioner.

4. I have heard the counsel for the petitioner and find no merit in the argument as raised.

5. In the '*Statement of Objects and Reasons*', of the Protection Of Women From Domestic Violence Act 2005, it is noticed that situations where a woman subjected to cruelty by her husband or his relatives was originally to be dealt with by the addition of Section 498-A in the Indian Penal Code, however, this law did not cover the entire spectrum of the violence, maltreatment etc. meted out to a woman. It was in this background that the aforesaid Act of 2005 came into existence. The Act of 2005 proposes to cover and provide protection to those women who are or have been in a relationship with the abuser, where both the parties have lived together in a “shared household” and are related by consanguinity, marriage or through a relationship in the nature of marriage or adoption or are family members living together as a joint family. Those women who are sisters, widows, mothers, single woman or living with the abuser are entitled to legal protection. Section 2(a) defines as to who would be an “aggrieved person” under the Act while defining “domestic relationship” under Section 2(f). The terms “respondent” and “shared household” have been defined under Section 2(q) and 2(s), respectively, while Section 2(g) defines “domestic violence”. Domestic violence has been defined to be amongst others as, any act, omission or commission or conduct of the respondent which a) harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse **and economic abuse** (emphasis supplied). The considerations in the prosecution under Section 498-A IPC are different from the considerations while dealing with an application under Section 12 of the DV Act.

6. Admittedly, a marriage was solemnized between the petitioner herein and the respondent No. 1. Both the Courts below have allowed interim maintenance to be paid to the respondent-wife while discarding the salary certificate as produced by the petitioner herein which would reflect that he is earning only Rs. 4,000/- per month. The contention raised that the petitioner herein was earning only Rs. 4,000/- per month could not be believed because an un-skilled labourer is capable of earning approximately a sum of Rs. 10,000/- per month. Even otherwise, a perusal of the salary certificate shows that the petitioner is earning Rs. 4000/- per month while working as a supervisor on a *part-time basis*. Therefore, it can be presumed that he is working or capable of working and earning beyond that sum. The affidavit filed by the respondent-complainant shows that she has a temporary job and in such a situation, it cannot be said that she has a regular income.

7. At the present moment, the Chief Judicial Magistrate is seized of the matter under Section 12 of the DV Act and it is only interim maintenance that has been allowed. Evidence has yet to be led as to whether there has been any domestic violence, earnings of the parties and their entitlement thereto. Only interim maintenance has been allowed @ Rs. 1,500/- per month along with the rent @ Rs. 1,000/-, which is not excessive and, therefore, this Court finds no infirmity in the orders so passed.

8. This petition being devoid of any merit is hereby dismissed.

29.11.2017

Waseem Ansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No