

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

Date of decision: 11.5.2017

1. **CRM-M No. 9601 of 2016(O&M)**

Harnek Singh SahotaPetitioner

VERSUS

Gagandeep KaurRespondent

2. **CRM-M No. 19602 of 2016(O&M)**

Tarsem Singh and anotherPetitioners

VERSUS

Gagandeep KaurRespondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Shakti Mehta, Advocate for the petitioner.

Ms. Payal Mehta, Advocate for the respondent.

REKHA MITTAL, J.

This order will dispose of CRM-M Nos.9601 and 19602 of 2016 as these have emerged out of the same proceedings filed by the respondent under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (in short 'the Act'). For the sake of convenience, facts are taken from CRM-M No.19602 of 2016.

Gagandeep Kaur – respondent was married to Gurpreet Singh son of the petitioners on 06.02.2013. As per the allegations raised in the application/complaint filed by the respondent, she was harassed and maltreated for bringing less dowry and on account of demand of dowry.

Surjit Kaur – mother in law petitioner No.2 is stated to be in possession of

gold ornaments, clothes and other valuable dowry articles etc. She resided with the petitioners till 07.06.2014 when the husband left the respondent near the parental house at Radha Soami Satsang Bhawan, Mohali. A compromise was effected between the respondent, her husband and the petitioners on 19.01.2015 and in pursuance thereof, the respondent and her husband started living separately in a rented accommodation namely House No.479, Top Floor, Phase 6, Mohali. The husband suddenly left the room and never returned.

Counsel for the petitioners has submitted that the respondent filed an application with the police but later she suffered a statement dated 19.01.2015 that she had compromised the matter, and thereafter she started residing with her husband in a separate house. It is vehemently argued that as the respondent and her husband had been residing separately since January 2015 though the respondent initially left house of the petitioners in June 2014, proceedings initiated at the instance of respondent by impleading the petitioners as well are nothing but abuse and misuse of process of law and liable to be quashed. In support of his contention, he has referred to judgment of this Court **Jaswinder Kaur vs. State of Punjab, 2013(8) RCR (Criminal) 2987.**

With regard to petition filed by Harnek Singh Sahota (petitioner in CRM-M No.9601 of 2016), it is urged that the respondent does not have domestic relationship with him nor he resided in a shared household with the said respondent. According to counsel, even if allegations raised in para 11 of the application/complaint are considered on its face value, proceedings against Harnek Singh Sahota are not maintainable.

Counsel for the respondent while refuting contentions of the petitioners (parents in law) has submitted that the petitioners in a pre-planned conspiracy with husband of the respondent ousted the respondent from matrimonial home / shared household and they cannot be allowed to take advantage of their clever tactics. It is further argued that the petitioners have sought to raise disputed questions of fact not amenable to adjudication under Section 482 Cr.P.C. Further submitted that the allegations raised by the respondent in the application require adjudication on the basis of evidence to be adduced by the parties, therefore, challenge to the proceedings at the instance of parents of Gurpreet Singh by invoking Section 482 Cr.P.C. is not sustainable.

I have heard counsel for the parties and perused the paper-book.

Before advertng to the rival submissions made by counsel for the parties, it is appropriate to deal with judgment referred to by counsel for the petitioners. In the referred authority, marriage of complainant was solemnized with Devinder Pal Singh on 28.01.2001. The petition was filed by the parents and sister of Devinder Pal Singh. The respondent resided with the petitioners in House No.19-A, Nihal Bagh, Baradari, Patiala till December 2004 but the complaint was filed on 26.08.2010. This Court, in para 8 of the judgment, has held that the complainant herself has admitted that she has not been residing with the petitioners since the year 2004 in the house in Baradari and therefore, the impugned complaint which is dated 26.08.2010 would not lie against the petitioners. Further held that arraying of the petitioners as co-respondents along with husband of the complainant is sheer abuse of process of law which has to be prevented by

exercising inherent power under Section 482 Cr.P.C. A bare reading of observations recorded in para 8 of the judgment would leave no manner of doubt that the petition was decided in view of its peculiar facts and circumstances and it does not lay down a preposition of law, to be followed in other cases. That being so, the petitioners cannot derive any advantage to their contentions from the referred authority.

In the case at hand, the respondent has levelled specific allegations against the petitioners. She was allegedly residing with the petitioners till June 2014 and started residing in a rented accommodation in pursuance of compromise effected between the respondent and her husband along with his family members while complaint filed by the complainant with the police was under investigation. The respondent has levelled allegation that she was kept away from the matrimonial home/shared household in a pre-planned conspiracy hatched by her husband and his parents. As has been rightly argued by counsel for the respondent, disputed questions of fact cannot be determined under Section 482 Cr.P.C. In this view of the matter, I do not find any merit in contention of the petitioners in CRM-M No.19602 of 2016 that summoning order dated 08.09.2015 or the complaint are liable to be quashed.

This brings the Court to the petition filed by Sh. Harnek Singh Sahota. Counsel for the respondent has fairly pointed out that the only allegation raised against him is incorporated in para 11 of the application/complaint. A relevant extract therefrom reads as follows:-

“11. That the life of the applicant become worst when the respondents No.4 and 6 (Harnek Singh Sahota is respondent No.6 in that application) came to the residence of the applicant and respondent No.1 at House

No.479, Top Floor, Phase- 6, Mohali and used abusive and filthy language against the applicant. Respondent No.4 gave slaps on the face and punches on the stomach of the applicant and respondent No.6 said that when respondent No.1 will not be present at this address then he will stay with the applicant at night.”

Counsel for the respondent has failed to point out if there is a domestic relationship between the respondent and Sh. Harnek Singh Sahota. The respondent and the petitioner never had domestic relationship nor they resided in a shared household as defined in Section 2(f) and (s), respectively, under the Act. That being so, I find merit in contentions of the petitioners that proceedings initiated against Harnek Singh Sahota are not sustainable and the same are nothing short of abuse and misuse of process of law, thus, liable to be quashed.

For the foregoing reasons, petition filed by Tarsem Singh and another is ordered to be dismissed. On the other hand, petition filed by Sh. Harnek Singh Sahota is allowed and the proceedings initiated against him under the Act are ordered to be quashed. However, nothing stated hereinbefore shall be construed as an expression of opinion on merits of the controversy.

MAY 11, 2017

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no