

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

CRR No.945 of 2013 (O&M)

Date of Decision: 02.11.2017.

Sher Singh

... Petitioner

Versus

Smt. Neelam Rani and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. R.N. Lohan, Advocate,
for the petitioner.

Mr. S.N. Pillania, Advocate,
for the respondents.

JITENDRA CHAUHAN.J.(ORAL)

This revision is directed against the judgment dated 04.03.2013 passed by Additional Sessions Judge, Jind vide which the appeal filed by the petitioner was partly allowed and the order dated 11.06.2011 passed by Additional Chief Judicial Magistrate, Jind was modified; and the order dated 11.06.2011 passed by Additional Chief Judicial Magistrate, Jind vide which the complaint under Section 12 of Protection of Women from Domestic Violence Act, 2005 (for short “the Act”) filed by the respondents was allowed.

Brief facts of the case as noticed in the order passed by the trial Court are as under:-

“This complaint is filed under Section 12 of Protection of Women from Domestic Violence Act, 2005, on the averments that Smt. Neelam Rani

complainant No.1 (hereinafter referred as applicant No.1) got married to respondent No.1 on 29.06.2001 as per Hindu rites and rituals. Respondent No.2 father-in-law, respondent No.3 mother-in-law whereas respondents No.4 and 5 are sisters-in-law of petitioner No.1. Respondent No.2 is retired ASI from police department. The father of petitioner No.1 spent money at the time of her marriage and entrusted dowry articles to the respondents. On 21.11.2008 respondents gave her beating and turned her out from the matrimonial home. A Panchayat was convened but they refused to maintain and keep the petitioner No.1 any further in the matrimonial home. The Istridhan and jewellery of petitioner No.1 retained forcibly by them. Respondents have also committed domestic violence by causing physical injuries and creating mental, emotional and economic abuse against her. Respondent No.1 is having property and bank balance as mentioned in detail in para 2(h)(i) to (iii) of the complaint. Therefore, this complaint is filed with the prayer that she is entitled to the relief under the provisions of Protection of Women from Domestic Violence Act, 2005.”

After leading evidence by both the parties, the trial Court passed the following order:-

“From the above detailed discussion, I am of the considered view that petitioners are entitled to get the following reliefs under the provisions of Protection of Women from Domestic Violence Act, 2005:-

(i) The petitioners are entitled to live in a joint shared holding under Section 19 of the Act. Respondents No.1 and 2 alongwith other family members will not create any hindrance in the peaceful enjoyment of the same.

(ii) SHO concerned shall give protection to the petitioner No.1 and her children for the implementation of the order passed today.

(iii) Respondents No.1 and 2 are liable to make a payment of Rs.10,000/- as compensation to the petitioners for giving her beating on 21.11.2008.

(iv) Respondents No.1 and 2 are directed to make a payment of maintenance to the tune of Rs.10,000/- per month under Section 20 of the Act to the petitioners from the date of passing this order for her maintenance as she is living with her two minor

children. However, the protection order is passed in favour of the petitioners that the respondents shall not subject them to physical or mental abuse.”

The order dated 11.06.2011 was challenged by the petitioner (father-in-law) before Additional Sessions Judge, Jind. Vide judgment dated 04.03.2013 Additional Sessions Judge, Jind modified the order dated 11.06.2011 by holding as under:-

“xx In view of above discussion, I do not find any infirmity in the impugned judgment of learned trial Court in granting shared house hold to the complainant in the house of Sher Singh appellant in Shiv Colony, Jind.

Now coming to the amount of maintenance awarded to the complainant, it is observed that liability to pay maintenance is of husband so long as he is alive and the complainant can seek for maintenance from father-in-law only after death of her husband. Hence awarding of maintenance to the complainant from appellant Sher Singh cannot be sustained and to that extent the impugned judgment is set aside.”

By filing the present criminal revision, Sher Singh (father-in-law) has laid challenge to the judgment dated 04.03.2013 passed by Additional Sessions Judge, Jind and order dated 11.06.2011

passed by Additional Chief Judicial Magistrate, Jind.

It is contended that the Courts below have erred in holding that the house owned by the petitioner is joint share holding of the respondents and son of the petitioner. The Courts below have not considered the fact that the house owned by the petitioner is not a property of the joint family rather the petitioner himself has purchased the house from his own savings and is sole owner of the house. Learned counsel relies on **S.R. Batra and another vs. Smt. Taruna Batra 2007(1) RCR (Criminal) 403** to contend that the wife is only entitled to claim the right to reside in a shared household and shared household would only mean the house belonging to or taken on rent by the husband or house which belongs to the joint family of husband as member.

On the other hand, the learned counsel for the respondents supports the impugned judgment and order passed by the Courts below.

Heard.

Considering the fact that the house is the self acquired property of the petitioner himself and the same is not a joint family property, the impugned judgment and order cannot sustain in view of judgment **S.R. Batra's case(supra)**. The respondents are not entitled to shared household which is self acquired property of the petitioner. This being so, the impugned judgment and order are set-

aside to that extent.

The revision petition is allowed in the manner indicated above.

02.11.2017.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No