

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

CRM-M-11712-2015

Date of decision:-10.7.2018

Bawinder Verma

...Petitioner

Versus

Richa Sharma

...Respondent

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Ashish Aggarwal, Advocate
for the petitioner.

Mr.Karan S. Gill, Advocate
for the respondent.

H.S. MADAAN, J.

This petition under Section 482 Cr.P.C. has been filed by petitioner – Bawinder Verma seeking quashing of the criminal complaint bearing No.486/2013 dated 21.8.2013 titled as “Richa Sharma through her attorney Sh.A.K. Sharma Versus Tarun Verma and others”, pending in the Court of Judicial Magistrate Ist Class, Panchkula filed under Sections 12, 18, 19, 22, 23 of Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as *the Act*) and the

consequential proceedings arising therefrom.

Briefly stated, facts of the case are that the complainant Richa Sharma had filed a petition under Sections 12, 18, 19, 22 and 23 of the Act against her husband - Tarun Verma, father-in-law – Suraj Parkash Verma, mother-in-law - Sarlesh Verma and brother-in-law Bawinder Verma. That petition was filed by her through her father and attorney Col.A.K. Sharma (Retd.). In the petition the complainant has contended that she was married with Tarun Verma on 12.11.2010 at Panchkula; that she was treated by respondents with cruelty during her stay in the matrimonial home and at various other places; that she was harassed and tortured on account of dowry demands despite the fact that the complainant had already paid her entire saving amount i.e. the amount saved from her salary after marriage to respondents and her parents had spent a lot of money at the time of her marriage giving considerable gifts. In the petition several incidents of alleged cruelty perpetrated upon her by respondents/accused have been mentioned. The respondents were summoned, who put in appearance.

An application for dismissal of the petition was filed by the respondents challenging the jurisdiction of the Court at Panchkula to entertain the petition stating that after marriage at Panchkula, the parties had started residing at Patiala, where they stayed for two weeks and thereafter went to Bangalore, where both of them were working with a multinational company; that no incident of domestic violence took place; that as a matter of fact the parties have never resided together at Panchkula even for a single day. This application was contested by the complainant stating that she works at Bangalore but her permanent

address is of Panchkula, therefore, she had filed the petition there; that the incidents of domestic violence against her were so cruel that she faced extreme mental anguish and agony, therefore, the Court at Panchkula had jurisdiction to entertain and try the petition. The application of the respondents was dismissed.

Notice of the petition was issued to respondent, who put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the petitioner has argued that the petitioner is brother-in-law (sister's husband of Tarun Verma); that there was no occasion for the petitioner to interfere in the matrimonial life of the complainant and Tarun Verma and she has wrongly dragged the petitioner in such litigation; that as a matter of fact, the marriage between Tarun Verma and Richa Sharma was second marriage for both of them, which was performed in a very simple manner and there could not be any demand of dowry; that after marriage the new wedded couple went to Malaysia on 15.11.2010 and then to Bangalore on 26.11.2010 since Tarun Verma was employed in Bangalore as a Software Engineer there; that Richa Sharma would however, pick up quarrels with her husband without any rhyme and reason on petty matters; that fed up with such behaviour of Richa Sharma, Tarun Verma had informed her parents in that regard, who gave an assurance that their daughter would not repeat any mistake in future; that the complaint by her is gross abuse of process of law. The impugned order passed has no legs to stand.

On the other hand, learned counsel for the respondent has

contended that the present petitioner has also joined his in-laws family in harassing and torturing the complainant. He is equally guilty and cannot get the complaint/petition quashed.

After hearing the learned counsel for the parties and going through the record, I find that the present complaint against the petitioner is nothing but an abuse of process of law. The main thrust of allegations by the complainant is against her husband - Tarun Verma, father-in-law - Suraj Parkash Verma and mother-in-law - Sarlesh Verma. A perusal of the judgment dated 22.3.2018 passed by Judicial Magistrate Ist Class, Panchkula goes to show that the said petition has since been dismissed against respondents No.1 and 3 with costs, whereas since proceedings qua Bawinder Verma had been stayed, no order has been passed in that regard. In the judgment, the reasons given by the trial Magistrate for dismissing the petition with costs are mainly as under:

- (i) Though the petitioner had alleged that she was assaulted by respondents but no medical or other evidence in that regard was produced on record by the petitioner except her statement appearing as CW1.
- (ii) No incident of alleged assault was either noticed by any neighbour of the petitioner and no such neighbour was examined by the petitioner.
- (iii) Though the petitioner had alleged that a sum of Rs.10,75,000/- was withdrawn by respondent No.1 after taking ATM card of petitioner for purchase of

flat at Bangalore but she had failed to lead evidence to prove that fact and hand written details of the amount cannot lead to an inference that said amount was withdrawn from the account of the petitioner that too by respondent No.1. Even otherwise by providing monetary help to her husband to purchase an accommodation/house does not fall within the ambit of demand of dowry.

(iv) Failure of the petitioner to prove allegations of cruelty against her husband.

(v) Admission of petitioner that she herself had left the company of her husband to attend her job at Hyderabad.

(vi) There being no evidence on record that any of respondents used any force or assaulted the petitioner at any point of time.

(vii) The record showing that the petitioner had rather committed cruelty upon the respondent, when she levelled allegations against her husband that his cousin sister liked him and she wants to make affair with him.

(viii) There being nothing on record to show that any domestic violence was committed upon the petitioner, rather it being a case of temperamental differences between the petitioner and respondent No.1.

(ix) Failure of the petitioner to prove incident of any type of cruelty committed upon her by any of respondents during her stay in the matrimonial home and rather it being a case of failure of marriage.

Now coming to the present petition filed by petitioner – Bawinder Verma, he being not an immediate member of the family could not possibly be taken to be present in the matrimonial home of complainant and her husband at most of the times, rather he is shown to be residing separately at Chandigarh along with his family. There are no specific allegations against such petitioner in the petition under Domestic Violence Act. There could not be any occasion of his committing any cruelty upon the complainant raising demand of any dowry etc. or subjecting her to domestic violence. After the marriage, the complainant and her husband had been residing at Bangalore for most of the time. The allegations qua the petitioner in the FIR are as under:

That as the cruel behaviour of the respondents No.1 to 3 against the applicant/complainant was increasing day by day and was becoming from bad to words, feeling worried and apprehensive, the parents of the applicant/complainant, contacted Mr. Bawinder Verma, respondent No.4, who offered to accompany them to Bangalore so as to discuss the whole matter with the respondent No.1 to 3, accordingly, in the 3rd week of May, 2013, the parents of applicant/ complainant and Mr. Bawinder Verma i.e. respondent No.4 (Jija of respondent No.1) came to Bangalore and met respondent No.1 to 3. It is added here that the expenditure qua the purchase of air tickets of Mr. Bawinder

Verma were met by the parents of the applicant/complainant. However, after reaching Bangalore Mr. Bawinder Verma/respondent No.4, revealed his two colors as he immediately started signing the tune of the respondent No.1 to 3 and it became apparent that he was also hand in glove with the respondent No.1 to 3 as during the discussions, he repeatedly tried to demoralize and down grade the applicant/ complainant and her parents. He without any heed to the requests of the applicant/ complainant and her parents, even declared that the applicant/ complainant and respondent No.1 would show their accounts to each other and shall maintain complete transparency and the applicant/ complainant would also share 50% of the house hold expenditure besides the payments of EMIs and prepayments the above said flat. To bring harmony and peace, the applicant/ complainant and her parents agreed to the above said declaration. However, after the departure of parents of the applicant/ complainant, respondent No.1 backed out of the above said decision and refused to show the loan account etc., rather he vigorously started demanding money from the applicant/ complainant on the pretext of prepayment of the loan of the flat. The applicant/ complainant refused to share her money unless the accounts were shown to her.

That on 05.06.2013, respondent No.1 rang up respondent No.4 and complained against applicant/ complainant. The respondent No.1 put the phone on the speaker mode and the respondent No.4 shouted at the applicant/ complainant and

directed her to give all her money to the respondent No.1 to 3. He back tracked from his earlier stand and further told the applicant/ complainant that the loan account will not be shown to her under any circumstances and she should forget about any transparency in the accounts of the respondent No.1. When applicant/ complainant refused to part with the money unless there is transparency in the accounts qua the payments towards the installments of flat, respondent No.4 gave green signal to respondent No.1 and stated that the applicant/ complainant is not worth living in their family and respondent No.1 should go ahead with his plans. Thereafter, the applicant/ complainant remained under constant fear and apprehension regarding her life and remained guessing that what green signal was given to respondent No.1. The said fear and apprehension exists in the mind of the applicant/ complainant till today.

These allegations even if taken as such are not only highly unconvincing and improbable but do not constitute any domestic violence. The trial Magistrate in his judgment has referred to **Loha Vs. Disstrict Educational Officer, Sriviliputhoor Virudhunagar, District W.P.(MP)** No.8646 of 2015, decided on 8.6.2015 in which it has been observed that that Protection of Women from Domestic Violence Act, 2005, suffers from inherent flaws which tempt women to misuse their provisions and men to dread being prosecuted under law without any rhyme or reason. Court observed that the notable flaw in this law is that it lends itself to such lasy misuse that women will find it hard to resist

the temptation to teach lesson to their male relatives and will file frivolous and false cases.

This appears to be so in the present case. With such type of allegations against the petitioner even if he faces the trial, the same is not likely to result in his conviction. The trial will result in only wasting valuable time of the Court when the main accused have been acquitted. There is least possibility of conviction of the petitioner when the allegations against him are being general, vague and sweeping type. Even *prima facie* it does not make the case of domestic violence. Domestic violence defined under Section 3 of the Protection of Woman from Domestic Violence Act, 2005.

Therefore, the petition is accepted and the complaint along with ancillary proceedings qua the petitioner is ordered to be quashed.

10.7.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No