

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

Crl. Misc. No. M-23464 of 2015

Date of decision : 15.10.2018

Baljinder Kaur

... Petitioner

versus

State of Punjab & Anr.

... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Present: Mr. Onkar Singh, Advocate
for the petitioner.**

Ms. Jaspreet Kaur, AAG Punjab.

**Mr. Ritesh Pandey, Advocate
for respondent No.3.**

ANITA CHAUDHRY, J.

The petitioner is seeking quashing of complaint filed by respondent No.2 under the Protection of Women from Domestic Violence Act, 2005, in which she and others were summoned.

The complaint was filed by respondent No.2 against her husband, mother-in-law and the present petitioner, the sister-in-law. It was asserted that the complainant's marriage took place on 14.12.2006 and she was harassed by the respondents arrayed therein for brining more dowry. She had sought restraint orders for not causing any violence against her, besides returning her dowry articles, she claimed residence rights and compensation from them.

The Court below issued process against the respondents therein.

Dis-satisfied therewith, the petitioner has approached this Court.

On 12.07.2015 notice of motion was issued and proceedings against the petitioner were stayed. It was noticed as follows:-

“It is inter alia contended that there was absolutely no allegation against the petitioner for implication her as respondent in the complaint filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005 except stating that the cash amount of Rs.2100/- and clothes were given to her at the time of marriage of complainant with the brother of petitioner and that it was the petitioner's idea that complainant should go to her parents for delivery. It is further contended that petitioner is the sister-in-law of complainant and she was married about 13 years before the marriage of complainant with the brother of petitioner.”

Respondent No.2 had put in appearance through counsel on 28.09.2016 and had sought time to file reply. Thereafter, number of opportunities were granted to file the reply but it was not filed despite availing last opportunity. Vide order dated 19.04.2018, the right to file reply was closed.

I have heard learned counsel for the parties and have gone through the paper book carefully.

Learned counsel for respondent No.2 had pressed that the petitioner was instrumental in causing domestic violence and she was residing with the complainant and was rightly arrayed and summoned in the complaint.

Per contra, learned counsel for the petitioner has referred to Annexure P-1 and had urged that the petitioner was the elder sister. She was

married in 1993 and living about 50 kms away with her two children and husband.

A perusal of the complaint filed under the Act would reveal that no specific instance had been referred by the complainant that she had been treated with cruelty by the petitioner. It is not in dispute that the petitioner was married and was residing separately. It cannot be believed that she was instrumental in causing any domestic violence to respondent No.2. The whole substratum of allegations revolve around the husband and the mother-in-law. It has come on record that divorce petition had been filed by the brother of petitioner against respondent No.2 and the petitioner had been arrayed in the complaint just to widen the net. It is generally noticed that in the cases of matrimonial discord each and every relations of the husband are implicated with exaggerated allegations. The Court below, without applying the judicial mind passed the summoning order against the petitioner, in a routine manner. From the allegations in the complaint, no case was made out against the petitioner. In the considered opinion of this Court, the complaint was not maintainable against the petitioner.

In view of the above, the petition is allowed and the impugned complaint and the summoning order qua the petitioner are quashed.

The aforesaid observations are confined to the case of the petitioner and have no bearing on the merits of the case against other respondents therein.

October 15, 2018
Jiten

(ANITA CHAUDHRY)
JUDGE

Whether speaking/ reasoned

Yes/ No

Whether reportable

Yes/ No