

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

Crl. Misc. M-30874 of 2018 (O&M)
Date of Decision: August 08, 2018

Shikha Pathak

...Petitioner

Versus

Varun Pathak and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Ambransh Bhandari, Advocate
for the petitioner.

JAISHREE THAKUR, J. (Oral)

This is a petition that has been filed seeking to challenge the impugned order dated 05.02.2018, by which the Judicial Magistrate Ist Class, Panchkula did not decide the application for grant of interim relief, as claimed by the petitioner herein as well as order dated 04.05.2018, by which the appeal filed by the petitioner against the order dated 05.02.2018 has been dismissed by the Additional Sessions Judge, Panchkula, by directing the trial court to expedite the disposal of the application for grant of interim relief.

Learned counsel appearing on behalf of the petitioner herein contends that both the courts have not paid attention to Sections 23(2) and 28 of the Protection of Women from Domestic Violence Act (for short 'the DV Act'), which reads as under;

“23. Power to grant interim and ex parte orders.

(1) xxx xxx xxx

(2) *If the Magistrate is satisfied that an application prima facie discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, he may grant an ex parte order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under Section 18, Section 19, Section 20, Section 21 or, as the case may be, Section 22 against the respondent.*

xxx xxx xxx

28. Procedure.

(1) *Save as otherwise provided in this Act, all proceedings under Sections 12, 18, 19, 20, 21, 22 and 23 and offences under Section 31 shall be governed by the provisions of the Code of Criminal Procedure, 1973 (2 of 1974).*

(2) *Nothing in sub-section (1) shall prevent the court from laying down its own procedure for disposal of an application under Section 12 or under sub-section (2) of Section 23.”*

It is further contended that in a similar matter, the High Court of Karnataka at Bangalore, while deciding Criminal Revision Petition No.815 of 2009, titled as “**Krishna Murthy Nookula s/o N.K. Sheshachalapathi vs. Y. Savitha w/o Krishna Murthy Nookula**” has taken note of these sections.

It is argued that respondent No.1-Varun Pathak is deliberately not putting in appearance in the said proceedings only to cause delay and frustrate the proceedings. It is submitted that he has filed an affidavit before

the Federal Circuit Court of Australia in Darwin, mentioning the fact that proceedings under the DV Act have been initiated and, therefore, he is well aware of the present proceedings in the court.

I have heard learned counsel for the petitioner and do not deem it appropriate to issue notice to the respondents herein since, it would only delay the proceedings further. The Additional Sessions Judge, Panchkula, while dismissing the appeal filed by the petitioner, has directed the Judicial Magistrate Ist Class concerned to dispose of the application for interim reliefs filed by the petitioner expeditiously.

While disposing of this petition, a further direction is added to the order already passed by the Additional Sessions Judge, Panchkula that the interim relief application that has been filed under the DV Act by the petitioner should be disposed of keeping in mind Section 23(2) read with Section 28 of the said Act within a period of two weeks, from the date of receipt of certified copy of this order.

With the aforesaid direction, the petition stands disposed of.

August 08, 2018

vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No