

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 36052 of 2016 O&M)

Date of decision : 11.10.2018

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Gaurav

.....Petitioner

vs.

Manjit Kaur

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Vaibhav Narang, Advocate
for the petitioner.

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H. S. Madaan, J.

This petition under Section 482 Cr.P.C. for quashing of criminal complaint No. 4743/2016 dated 17.5.2016 and summoning order dated 17.5.2016, passed by Chief Judicial Magistrate (D), Ludhiana, has been filed by Gaurav, one of the respondent in that petition/complaint.

Briefly stated, facts of the case are that petitioner Manjit Kaur w/o Sunil Dhami, had filed a petition against her husband, mother-in-law Resham Kaur, sister-in-law Amandeep Kaur (Nanad) and brother-in-law Gaurav (Nanad's husband), under Section 12 of

Protection of Women from Domestic Violence Act, 2005 read with Sections 18, 19, 20, 21, 22 and 23 of the said Act.

The Court has summoned all the respondents. The petitioner has challenged the criminal complaint and the summoning order stating that his wife Amandeep Kaur is residing in Australia and is an Australian citizen, whereas present petitioner Gaurav is nothing to do with the domestic affairs of the petitioner and her husband. Marriage between the brother-in-law and Amandeep Kaur was solemnized on 21.4.2015 i.e. after a little more than 4 months of marriage between the petitioner and respondent No.1. They are having separate residence. The petitioner is putting up at Amritsar. Petitioner is not living in matrimonial home of Manjit Kaur and has never shared his household with her. There was no occasion for him to raise demand for dowry or maltreat the Manjit Kaur. Therefore, the petition against petitioner is an abuse of process of law and it be quashed.

Notice of the petition was given to the respondent, who refused to accept service.

I have heard learned counsel for the petitioner, besides going through the record and I find merit in the petition.

Admittedly, the matrimonial home of petitioner Manjit Kaur and her husband Sunil Dhami is at Ludhiana, whereas, Gaurav, has got his home at Amritsar; that his wife is stated to be residing in Australia. It is highly un-likely that Gaurav, who does not share a common household with petitioner Manjit Kaur and her husband Sunil Dhami, would come all the way to the matrimonial home of

Manjit Kaur and harass her and maltreat her in connection with demand of dowry or perpetrate domestic violence on her. Such respondent seems to have been involved as a pressure tactics only. The trial Court without considering all the aspects has summoned respondent No.4.

Learned counsel for the petitioner has referred to authority **Om Parkash Syngal and others vs. Shimla Garg, 2016 (3) RCR (Criminal) 225**, by a Coordinate Bench of this Court, wherein it was observed that domestic relationship continues so long as the parties live under the same roof and enjoy living together in a shared household and where the living together has been given up and a separate household is established and belongings are removed, domestic relationship comes to an end and a relationship of being relatives of each other survives. It was further observed that domestic violence is a violence which is committed when parties are in domestic relationship, sharing same household. He has further referred to authority **Anoop and others vs. Vani Shree 2015 (2) RCR (Criminal) 989**, by a Coordinate Bench of this Court, wherein it was observed that the law with regard to protection of woman from domestic violence is being used to terrorise the husbands, their families and distant relatives and this phenomenon has now acquired the name of 'Legal Terrorism'. Therefore, the complaint in question and summoning order passed by the trial Court with respect to respondent No.4 are nothing but an abuse of the process of law and ends of justice demand that those should be quashed.

Accordingly, the petition is accepted. The abovesaid

complaint, summoning order and ancillary proceedings, qua the petitioner are hereby ordered to be quashed.

11.10.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No