

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

CRM-M-42611-2017 (O&M)

Date of Decision: 06.12.2018

Sachin Rohilla and others

....Petitioners

Versus

Bharti and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Sandeep Kotla, Advocate
for the petitioner(s).

Mr. Rajesh Dhankar, Advocate for
Mr. Balkar Singh, Advocate
for respondent No.1.

ANITA CHAUDHRY, J

The petitioner has approached this Court seeking quashing of the domestic violence complaint filed by respondent No.1.

Service had been effected on respondent No.1 and they had put in appearance in December, 2017. The case was adjourned a number of times to enable respondent No.1 to file reply but they continued to take adjournments and last opportunity was granted in May, 2018. The reply was still not filed and the right to file the reply was closed on 24.08.2018. On the last date of hearing, there was no appearance on behalf of respondent No.1 and it was directed that the counsel should be available on the first call. Today a request was made on behalf of respondent No.1 for adjournment but when the respondent was reminded of the order passed on the last

hearing, counsel states that he is ready with the submissions.

Learned counsel for the petitioners contends that the marriage between petitioner No.1 and respondent No.1 was performed on 11.11.2016 and respondent No.1 refused to cohabit with petitioner No.1 and on 15.11.2016, she left the matrimonial home saying that she had to appear for an exam in PGI, Rohtak and thereafter did not return and the husband contacted her several times but she did not pick the phone and ultimately when he was able to speak to her, she refused to come back saying that she had an affair with Sombir (who was her classmate) for the last four years and she would not come back. Counsel states that on the basis of this information, the petitioner's family made inquiries from father of respondent No.1, who admitted that his daughter was in a relationship and that she would not be returning. Counsel states that a *Biradari* Panchayat was convened on 20.11.2016 and all the dowry articles and *Istridhan* and the gifts were returned and a written agreement (Annexure P5) was executed before the Panchayat and subsequently on 14.12.2016, respondent No.1 came to Panipat along with her mother and Sombir and his mother and *Talaknama* was executed wherein she admitted her affair with Sombir and stated that she would take divorce from Sachin and agreed to file a mutual divorce petition but thereafter backed out and did not file the divorce petition and instead filed a complaint under the Domestic Violence Act. Counsel states that in the affidavit given by respondent No.1, she had stated that the marriage was not consummated and she and her father have in their affidavits admitted to the relationship between respondent No.1 and Sombir and in the light of this, the complaint by her was an abuse of process of the Court. Counsel further submits that respondent No.1 had not referred to any

incident of domestic violence nor could have, as she had not stayed with the petitioner nor the marriage was consummated.

Counsel for respondent No.1 sought to justify the complaint but has been enable to deny the affidavits given by the complainant and her father.

A perusal of the record shows that a week after the marriage, when the complainant left the matrimonial home and went to Rohtak to appear for examination and when her parents contacted her, respondent No.1 made a complaint against her father and later on withdrew the same. The complaint is Annexure P-4.

The contents of the complaint are in contradiction of the facts which the complainant had sworn in her affidavit. The copy of which is Annexure P-7. She has admitted to relationship with another person. The complainant in her affidavit had stated that her parents were against that relationship and that her marriage with Sachin was forcible. She had also stated that the marriage was never consummated and she did not wish to continue with the same and wanted a divorce. She had also undertaken that she would not file any criminal or civil litigation against Sachin and his family members and would make herself available for the divorce proceedings. This affidavit was given on 14.12.2016 almost a month after the marriage. The father of the complainant also gave an affidavit Annexure P-5 which tallies with the version given by the petitioner. It also refers to the fact that when the complainant's father wanted to meet the daughter and she refused to meet them. It also refers to the Panchayat and the compromise effected thereafter.

A perusal of complaint shows that no specific instance of domestic violence was referred to. The facts of the case are that no offence under the Domestic Violence Act is made out against the petitioners. The complaint could not have been filed. The proceedings against the petitioners under the Domestic Violence Act are nothing else but an abuse of process of law, which cannot be permitted to continue. It is settled that where the allegations made in the complaint are absurd and improbable, the Court would be within its power to quash the complaint. The allegations in the complaint are absurd and improbable and warrants interference to meet the ends of justice and prevent the abuse of process of the Court.

The petition is allowed and the complaint and all the subsequent orders passed therein are hereby quashed.

December 06, 2018

ps-I

**(ANITA CHAUDHRY)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No