

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

CRR No.1581 of 2015 (O&M)
Date of decision: 31st October, 2018

Chandrup

... Petitioner

Versus

Shakuntla & another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. R.A. Sheoran, Advocate for the petitioner.

Mr. Sumit Sangwan, Advocate for the respondents.

FATEH DEEP SINGH, J.

Applicant Shakuntla being the wife and Rambir alias Sanjay being minor son of Chandrup invoked jurisdiction of the Court by moving an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (in short, 'the Act') read with Rules 2006.

The brief gamut of averments is that the couple got married on 06.06.1993 and out of which a son Rambir alias Sanjay was born. The couple carried on well during the period but after the death of elder brother of the husband namely Satyavir, it is alleged that the husband started developing relations with the widow of his brother and on objection the husband physically abused her and did not bother to look

after the wife and minor son and did not provide them with the basic amenities of life and thus, being a case of domestic violence, has led to the filing of the instant application under Section 12 of the Act.

The husband in his stand has refuted the allegations terming that the wife was under the influence of her parents and denied each and every allegation including his earnings and wealth. The wife to prove her case, examined Dharampal as AW1 who tendered his affidavit Ex.AW1/A and thereafter father of the applicant wife Dharampal deposed as AW2 through his affidavit Ex.AW2/A followed by the testimony of applicant wife Shakuntla as AW3 through her affidavit Ex.AW3/A and in the process proved documents Ex.A1 to Ex.A6.

The respondent husband examined Rajpal Singh as RW1 who filed his affidavit Ex.RW1/A to deny the allegations of the applicant and to bring about the element of economic distress of the husband. The husband further examined Hawa Singh as RW2 who filed affidavit Ex.RW2/A to the same effect and thereafter, husband testified as RW3 by way of his affidavit Ex.RW3/A and proved documents by way of birth certificate of one Pappu Ex.R1. Consequent upon the arguments, through orders dated 08.08.2014 the Court of learned Judicial Magistrate 1st Class, Charkhi Dadri, Bhiwani allowed the application and made the following orders:

“11. Therefore, it is ordered that agriculture land of respondent which was acquired by him from his forefathers be attached so that the remaining land may not be squandered by the respondent and thereby forcing the complainant and her son to lead a life of utter penury and destitution. Because the only source of income to maintain his wife and children is that ancestral property and therefore, the same is attached to the tune of property coming in the share of complainant and her son.

12. Respondent is restrained from causing any kind of physical violence to the complainant and he is also restrained from causing any kind of interference in the residence of applicant. She is also allowed an amount of Rs.20,000/- as compensation to incur the charges of prosecution under Section 22 of the Act and respondent is directed to pay this amount within a period of one month. She is also entitled to an amount of Rs.2000/- per month under Section 20 of the Act for maintenance and education expenses of her son who is pursuing his graduation. The complainant is herself cultivating 3 acres of land, she therefore, can maintain herself through income. However, respondent is at liberty to pay the amount of maintenance quarterly or half yearly in advance. But in case the amount of maintenance becomes due for a period exceeding one month, complainant is at liberty to file an application for recovery of that amount as fine under Section 426 of Cr.P.C. by getting him sent to civil imprisonment... ..”

The same was challenged in appeal by the aggrieved husband Chandrup and the Court of learned Additional Sessions Judge, Bhiwani through judgment dated 13.01.2015 has upheld the findings of the Court below and thus, dismissed the appeal. That is how the parties are before this Court in this revision by the unsuccessful husband.

Heard Mr. R.A. Sheoran, Advocate for the revisionist; Mr. Sumit Sangwan, Advocate for the respondents and perused the records.

Learned counsel for the petitioner Mr. R.A. Sheoran, Advocate could not displace the arguments put forth by learned counsel for the respondents Mr. Sumit Sangwan, Advocate that the very inter-se relationship of Chandrup with Shakuntla and Rambir alias Sanjay is not at all disputed. Furthermore, the claim of the wife and the son that the latter is studying, is not at all displaced in the submissions of the two sides. As is there in the arguments of the two sides, the husband owns agricultural land and therefore, is in an economic situation to afford the amenities of life commensurate to his status for his wife as well as the minor son who is studying. The claim of the wife that the son was initially studying in a good school but on account of apathy of the husband in not supporting them, the child was taken out of the reputed school and put in an ordinary one, are matters of much relevance;

besides the fact that there is categoric allegation by the wife that the husband is in relationship with the widow of his deceased brother and is in a habit of excessive drinking and under the influence of which he physically abuses her. It is the own stand of the husband which though has not been supported by him in a better way that he has economic woes, but rather lends credence to the stand of the wife that the husband to pay for his wayward habits is selling off and disposing off the properties, movable as well as immovable, and has been taken note of by the courts below. There is further allegation brought about that the husband has sold off 2 acres of ancestral property for paying of the lavish lifestyle of his brother's widow and children, and on the other hand is denying these benefits to his own wife and child. The husband admits through his witness RW2 Hawa Singh that he is residing separately from his wife and in his cross-examination as RW3 the husband admits having sold off 2 acres of ancestral land, thresher and tractor as well as other implements but his claim that the same were to pay for the debts of the bank, could not be established to the satisfaction of the Court. Rather it has been rightly concluded by the Court below, as has come in the submissions of the counsel that the husband is selling off his ancestral property with a view to deny the wife and his child their right to its inheritance. The allegations of the wife could not be

successfully controverted by the husband in his evidence and rather the evidence led by the wife appears to be more convincing and acceptable, cogent, duly substantiated and credible by all means. The Court below has rightly restrained the husband from interfering in the life of the wife and the child and causing physical abuse and further restraining him from alienating the properties of the family and has rightly directed him to pay maintenance to the wife as well as the child. Learned counsel for the revisionist could not convince this Court how the impugned order suffers from any illegality or impropriety necessitating intervention by this Court. The revision being hopelessly without merit stands dismissed.

(FATEH DEEP SINGH)
JUDGE

October 31, 2018

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No