

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

Criminal Revision No.4377 of 2016(O&M)

Date of Decision: February 14 , 2018.

Rupali

..... PETITIONER (s)

Versus

Satyaveer Singh and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Piyush Aggarwal, Advocate
for the petitioner.

LISA GILL, J.

The petitioner being aggrieved of order dated 05.08.2016 passed by the learned Additional Sessions Judge, Sirsa has preferred this revision petition. The learned Additional Sessions Judge, Sirsa vide the impugned order has set aside order dated 16.12.2013 passed by the learned Judicial Magistrate First Class, Sirsa wherein the petition filed by the petitioner under the Protection of Women from Domestic Violence Act, 2005 (for short, the 'Act') was allowed.

Brief facts necessary for the adjudication of the case are that, a petition under the Act was filed by the present petitioner against the respondents who are her mother-in-law, brothers-in-law and other members of the in-laws family. The petition was not filed against the petitioner's husband. Marriage of the petitioner was solemnized with Dinesh son of Rattan Singh on 25.04.2007.

A child was born out of this wedlock. As per the averments in the petition, the

petitioner was subjected to harassment and torture by her in-laws family on account of bringing insufficient dowry. The petitioner was provided a room and kitchen on the ground-floor of the house. Various allegations have been levelled in the said petition. It is stated that the petitioner was living separately since the year 2009 with her husband and minor child. It is alleged that she was forced to leave the shared household.

This petition was contested by the respondents before the learned trial court while specifically stating that the house in question is not a shared house hold and is the self-acquired property of the mother-in-law, Satya Wati. Moreover, the petition has been filed by the petitioner in collusion with her husband only with a view to grab the property in question. A civil suit had been filed by the petitioner's husband.

The learned trial court taking into consideration the facts and circumstances of the case including the evidence led by the parties, concluded that the petitioner had a right in the shared household and she should not be evicted therefrom. A protection order was passed in the petitioner's favour and the respondents were prohibited from alienating the property in question. Various other reliefs as detailed in order dated 16.12.2013 were afforded in the petitioner's favour.

The respondents preferred an appeal against the said judgment dated 16.12.2013. The learned Additional Sessions Judge, Sirsa taking into consideration the facts and circumstances as well as the decision of the Hon'ble Supreme Court in **S.R.Batra and another v. Smt. Taruna Batra, 2007(1) RCR (Criminal) 403** allowed the appeal preferred by the respondents while holding that the house in question is not a 'shared household' as defined under the Act.

Consequently, impugned order dated 16.12.2013 was set aside and the petition preferred by the petitioner under the Act was dismissed. Aggrieved therefrom, the present revision petition has been preferred.

Learned counsel for the petitioner vehemently argues that the learned Additional Sessions Judge, Sirsa has grossly erred in reversing the well reasoned and logical decision dated 16.12.2013 rendered by the learned Judicial Magistrate First Class, Sirsa. It is contended that there is no dispute regarding the petitioner and her husband living in the house in question alongwith other family members till May 2009. Therefore, even if property in question is the self-acquired property of the mother-in-law of the petitioner, it would fall under the definition of “shared household”. Moreover, there is nothing on record to show that the present petition has been filed in connivance or collusion with her husband. Domestic relation with all the respondents is proved on record. Therefore, it is prayed that the present revision petition be allowed.

I have heard learned counsel for the petitioner and have carefully gone through the file.

It is not in dispute that marriage of the petitioner was solemnized with Dinesh son of Rattan Singh on 25.04.2007. It is further not in dispute that since May 2009, the petitioner alongwith her husband and minor children were living separately from the in-laws family. Husband of the petitioner has not been arrayed as a party to the petition preferred by the petitioner. It is further not in dispute that the house in question is owned and possessed by respondent No.3- Satya Wati, mother-in-law of the petitioner. This fact is admitted by the petitioner in her cross-examination. The petitioner has further admitted that her husband had filed a civil suit regarding the said house after he was disinherited

by his parents. It is to be noted that the present petition under the Act was filed by the petitioner on 24.10.2009 whereas the civil suit was filed by the petitioner's husband on 19.10.2009. The learned Additional Sessions Judge, Sirsa has specifically observed as under:-

“13. The astonishing fact in the present application is that the applicant Rupali (PW1) has not impleaded her husband Dinesh (PW3) as a party for the reasons best known to her. It has been stated by Rupali (PW1) in her cross-examination that she has neither any ration card nor any voter's list regarding house in question. She has admitted in his cross-examination that mother-in-law Satyawati i.e. appellant No.3 is owner of the said house. She has further stated in her cross-examination that her husband had filed a suit regarding the said house after her husband had been disinherited from the said house and that the suit was still pending and that in that suit, her husband has claimed his share. She has further stated in her cross-examination that she did not make any complaint to any officer regarding misbehave for the demand of dowry by the appellants. She has also stated in her cross-examination that maruti-800 car given by her parents in dowry was in her name and the same has been sold by her. Her husband Dinesh while appearing as PW3 has admitted in his cross-examination that neither he nor his wife Rupali (PW1) made any complaint to any police officer or any other officer regarding demand of Honda City car or Wagon-R car or golden ornaments by the appellants and that the house in question was purchased by his mother Satyawati and that regarding that house, he had filed a suit for stay, which was withdrawn by him on 25.08.2010 and that he is not in good terms with his mother Satyawati, Satyavir and Manoj. He has further admitted in his cross-examination that the suit was filed by him on 19.10.2009 and the present application was filed by Rupali (PW1) on 24.10.2009.

14. The statements of Rupali (PW1) and her husband Dinesh (PW3) go to show that the present application has been filed by the

applicant in connivance with her husband Dinesh (PW3) to grab the house in question. In fact, Dinesh (PW3) was disinherited from the house in question, which is admittedly owned and possessed by the appellant No.3 and that is why Dinesh (PW3) filed a suit against his mother at Delhi, which was ultimately withdrawn by him. At the same time, the applicant Rupali (PW1) filed the present application to put pressure upon the appellants especially upon appellant No.3 Satyawati. Neither Dinesh (PW3) nor his wife Rupali (PW1) has any right, title or interest in the abovesaid house.”

It is a settled position that no litigant can be permitted to misuse the process of law for any oblique purpose. The learned Additional Sessions Judge, Sirsa has rightly set aside order dated 16.12.2013 passed by the learned Judicial Magistrate First Class, Sirsa and dismissed the petition filed by the petitioner.

Learned counsel for the petitioner is unable to point out any illegality or infirmity in the impugned decision dated 05.08.2016 passed by the learned Additional Sessions Judge, Sirsa which calls for interference by this Court in exercise of revisional jurisdiction.

Needless to say, the observations in this order are confined to the controversy in hand.

There is a delay of four days in filing of this revision petition. Keeping in view the fact that the matter has been decided on merits, the question of delay in filing of the appeal has been rendered academic.

Petition is accordingly dismissed.

February 14 , 2018.
'om'

(**LISA GILL**)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No