

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

**Crl. Revn. No. 2811 of 2017 (O&M)
Date of decision : 08.10.2018**

Preeti Chawla

.....Petitioner(s)

Versus

Indra Chawla and another

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr.Prateek Rathee, Advocate
for the petitioner.

Mr. Shailender Singh, Advocate for
Mr. Joginder Sukhija, Advocate
for the respondents.

ANITA CHAUDHRY, J.

This revision is directed against the order dated 06.07.2017, passed by the Additional Sessions Judge who set aside the order of the trial Magistrate and allowed the application filed by the respondents and discharged them.

Referring to the allegations made in the complaint filed by the petitioner first. Preeti was married to Manish in September 2006. A complaint under the Domestic Violence Act was filed by her in 2016 alleging that after marriage she came to know that her husband was not earning as much as was disclosed before their alliance and they were not having good relations with their relatives and they never used visited them. It was alleged that the petitioner was not allowed to talk to any person

outside the house. It was alleged that the mother-in-law reminded her almost every alternative day that she had not brought enough dowry. The money handed over by her relatives were handed over to the mother-in-law and it was made clear to her that everything she used in the house will have to be paid for by her. It was alleged that the mother-in-law did not allow the petitioner to visit the temple next to the house. General allegations were made that all the respondents asked her to surrender the credit card which she was using before marriage and she was totally dependent upon the respondents for her day-to-day expenses. It was pleaded that the mental cruelty and harassment continued. Against respondent no.4 it was pleaded that she used to support respondents no.1 to 3 and she never respected her. The allegations further were that the mother-in-law threatened that her son would give her divorce and the respondents always let her down but in order to save her marriage she kept on fulfilling the illegal demands and tolerated their behaviour and they were greedy. It was pleaded that the respondents came to know that her father had sold a property in April 2008 and she should ask for her share. The petitioner had further mentioned that the first child was born in October 2008 but she was forced to leave the matrimonial home in December 2008 and they took her back saying that her presence in the house was necessary as the marriage of respondent no.4 was fixed in February 2009. The petitioner returned to the matrimonial home in January 2009 but the behaviour did not change. It was pleaded that respondents no.2 & 3 did not show any affection to her child and she was physically and mentally tortured. It was pleaded that she was forced to leave the

matrimonial home along with her child in October 2009. It was further averred that her father asked for the money given to respondents no.1 to 3 but they refused and her father sold one property and purchased another one in Gurgaon. It was further pleaded that respondent no.1 got a job in Dubai and she along with her husband went to Dubai in March 2012 but there also the interference by respondents no.2 to 4 did not end. It was pleaded that respondents no.2 & 3 came to Dubai again in July 2014 and the petitioner made all efforts to make them happy. It was claimed that petitioner returned India in January 2015 to give birth to her second child and for treatment of her elder child but respondent no.2 & 3 refused to take her back. The second child was born in December 2015. It was pleaded that she was living with her father in Gurgaon since then.

The main relief sought for by the complainant was injunction against any domestic violence, a right of residence in a house at Delhi, besides monetary relief and compensation.

The husband was abroad and was proceeded *ex parte*.

Respondents no.2 & 3 filed an application for dropping the proceedings against them. It was averred that the petitioner had left the matrimonial home in October 2009 and she was living separately from them and thereafter the couple had shifted to Dubai. It was pleaded that in March 2016 the complainant along with the two children and the father and brother came to their house demanding a right of residence and a complaint was given to the police regarding the incident and they had filed a suit for injunction in Delhi Courts and this complaint was just a counter blast.

The trial Magistrate concluded and gave its finding in para 7 of the order, which reads as under:-

“After hearing the rival contentions of the parties, this Court is of the considered view that, at this stage, there is no ground to drop proceedings qua the applicants. The judgments cited by the applicants cannot be relied upon at this stage as the same have been rendered after considering the entire evidence on record, whereas no evidence has yet been adduced by either party in this case. In fact, in the very judgments quoted by the applicants, the right of residence of a woman in the ancestral property of her husband has not been de-recognized. In this case, there is not even a single document to establish the nature of the alleged matrimonial house, whether it is an ancestral property or separate property of the applicants. Therefore, at this stage, the petitioner cannot be debarred from claiming against the applicants at least the right of residence, if nothing else, in such property. The question of existence and extent of liability of the respondents can be decided only after considering the evidence and/or documents adduced by the parties during the course of proceedings. Therefore, no ground is made out to drop proceedings against the applicants at this stage.”

Aggrieved by the order an appeal was preferred by the mother-in-law and the father-in-law, which was allowed.

Aggrieved the complainant has filed this petition.

I have heard counsel of both the sides.

Counsel for the petitioner submits that the Appellate Court had wrongly discharged the mother-in-law and the father-in-law and there were allegations against them and they had stayed together for a number of years. The counsel submits that though the couple had shifted to Gurgaon in July 2010 but the interference continued and the petitioner was harassed and they were not satisfied with the dowry and used to take her salary. The counsel further submitted that the trial Court had passed an order allowing maintenance of Rs.1 lac and a residence order but what we are concerned is with the wrongful discharge of the respondents and the trial Court had rightly held that all the questions raised by the respondents would be decided after evidence was led.

The submission on the other hand is that the couple had stayed in Delhi in the house situated in Rajauri Garden for the initial years but thereafter they moved to Gurgaon and took a rented accommodation in July 2010 and thereafter, had never stayed with them in their house. The counsel submits that couple had gone to Dubai in 2012 and the in-laws had also gone there and there was no complaint to the authorities in Dubai. The counsel submits that the in-laws had returned and the petitioner returned to India in January 2015 and did not reside in their house and all the allegations which are trivial in nature pertain to the period prior to October

2009. The counsel submits that no complaint was made and it was a dispute between the couple and they have been arraigned only because they had filed a suit for injunction as their daughter-in-law was claiming right of residence in their house. The counsel further submits that there is no allegation that the property in their occupation was ancestral and the allegations are trivial and there is no MLR.

It is not disputed that the mother-in-law and the father-in-law are residents of Rajouri Garden, Delhi. It is also not disputed that the petitioner along with her husband had moved to Gurgaon and this fact is admitted by the petitioner in her petition. According to her, she moved to Gurgaon on 30.10.2009. She had also pleaded that they shifted to a rented accommodation along with her husband and she accompanied them to Dubai. This goes to show that all was well between couple even till December 2014. No complaint was given against the husband in Dubai, but it is a fact that she will have to prove at the trial so far as the husband is concerned and it is not necessary to go into that question. It is the case of the petitioner that the in-laws had visited her in Dubai and but stay there was for a period of 10 days.

The petitioner was claiming right of residence in their house which was situated in Delhi. There was no averment that the property was ancestral or that her husband had any right in their property, therefore, the claim against them was not maintainable in the Courts at Gurgaon. The couple had been living separately since October 2009. The couple had gone abroad and the petitioner had gone to Dubai along with her in-laws. It

appears that the parents had been arraigned with a view to cause harassment not only to them but to the husband. Not a single instance of domestic violence was cited. General allegations were made against the in-laws. The trial Court dismissed the application filed for discharge on the ground that the parties were yet to adduce evidence. It was a case where notice should not have been sent to the in-laws and the Court failed to apply its mind. It is not the responsibility of the in-laws to provide maintenance to the daughter-in-law nor the daughter-in-law can claim right of residence in their house. They had wrongly been arraigned. The dismissal of the application was improper. The First Appellate Court rightly allowed the application. I find no infirmity in the order. There is no merit in the petition and is dismissed.

08.10.2018

Sunil

(ANITA CHAUDHRY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No