

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

CRR No.3297 of 2017 (O&M)
Date of decision: 22nd November, 2018

Vishal Kaushik

... Petitioner

Versus

Shalini Kaushik

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Vijay Pal, Advocate for the petitioner.

Mr. Ajay Prataap Dhankar, Advocate for the respondent.

FATEH DEEP SINGH, J.

The very genesis of this lis between the wife Shalini Kaushik and her husband Vishal Kaushik, father-in-law Surender Kaushik and mother-in-law Sunita Kaushik has its origin when a marriage between Shalini Kaushik and Vishal Kaushik was solemnized on 28.02.2002 where sufficient dowry was given and in spite of the couple having been bestowed with two sons, on account of their bickering the couple had separated leading to institution of cases against each other. In the present revision by the petitioner husband Vishal Kaushik, challenge is to a judgment dated 18.01.2016 of the Court of learned Judicial Magistrate 1st Class, Hisar in an application moved by the wife under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (in short, 'the Act') and which has merged into judgment dated 18.05.2017 whereby the Court of learned Additional Sessions Judge, Hisar disposed

off jointly two separate appeals one by the wife and the other by the husband against the orders of learned Judicial Magistrate 1st Class and thereby both the appeals were dismissed.

Heard Mr. Vijay Pal, Advocate for the petitioner; Mr. Ajay Prataap Dhankar, Advocate for the respondent and perused the records of the case.

It is by no means displaced by learned counsel representing the two sides as to the inter-se relationship of Shalini Kaushik and Vishal Kaushik, the applicant before the Court below and the respondent therein respectively. Learned counsel for the petitioner husband and the respondent wife fairly concede over the marriage, birth of children and their matrimonial disaccord. However, the only claim and counter-claim is over the element of physical and mental cruelty which the wife claims has been heaped upon her by the husband. The pendency of different litigations between them is an admitted fact. By virtue of an application under Section 12 of the Act, the wife is trying to seek compensation/damages on account of domestic relationship with the main respondent. Section 2 Clause (s) of the Act defines 'shared household' and denotes that the house where the person aggrieved lives or at any stage has lived in a domestic relationship singly or along with the respondents. This right to live in the shared household springs out of

the valid and subsisting of marriage on the relevant date when the cause has occurred.

Learned counsel for the husband does not displace the fact that the couple lived together as husband and wife, cohabited and out of which two children have been born and who, to the mind of this Court, by now must have attained majority and therefore, over a long sufficient period of time, the couple carried on this relationship in the dwelling unit in question. It is conceded by the learned counsel for the petitioner that maintenance to the tune of Rs.10,000/- per month has been awarded to the wife against the husband and who has been well established in running his own business besides agricultural income to the family and income from other immovable properties situated in Faridabad and Gurugram. The wife has proved on record while stepping into the witness box as PW1 documents Ex.P1 to Ex.P18 out of which Ex.P6 to Ex.P9 show the income tax returns/statement of bank as to the earnings of the husband whereas on the other hand the husband as RW2 on the basis of his affidavit Ex.RW2/A has sought to lend credence to what has been stated in the reply by the respondent and thus, corroboration to deposition of the respondent as DW1 (sic) by virtue of affidavit Ex.DW1/A. The clinching evidence that has come about from the side of the wife is her pathetic state of being physically as well as mentally ill-treated, and thus, compelling her to renounce this sacrosanct relationship. The claim that

the agricultural land and the immovable properties in Faridabad and Gurugram are in the names of the parents of the husband but at the same time learned counsel for the petitioner could not convince how the earnings brought on the record of the husband documentarily could be displaced or the fact that even in the application under Section 125 Cr.P.C. the wife has been awarded maintenance at the rate of Rs.10,000/- per month and which has been upheld by this Court in another petition bearing CRR(F) No.90 of 2016 between the same very parties. Thus, to the mind of this Court the maintenance allowance awarded to the wife certainly is appropriate and need not be disturbed.

To the very specific query of this Court how the amount of Rs.2,000/- per month as rent awarded to the wife or in the alternative a suitable accommodation was in any manner perverse or illegally, learned counsel for the petitioner was totally at loss of words. Furthermore, the wife who has never been shown to be having any earnings or owning an immovable property certainly needs a roof upon her head and therefore, it is the obligation of the husband who is very well bestowed with all these amenities of life is made to undergo that obligation. Keeping in view the present trend of prices especially when rentals have skyrocketed, grant of Rs.2000/- per month as rent, on failure of the husband to provide a suitable accommodation to the wife, cannot be termed to be in any manner illegal or perverse.

The impugned judgment is by no means suffering from any tangible misinterpretation of the law or the facts in the impugned findings under assail. The Court below has come to a totally justifiable conclusion and does not as such necessitate intervention by this Court. The revision being hopelessly without merit, stands dismissed.

(FATEH DEEP SINGH)
JUDGE

November 22, 2018
rps

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