

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

Criminal Revision No. 1274 of 2018 (O&M)  
Date of Decision: 6.4.2018

Sonia

...Petitioner

Versus

Dharambir

...Respondent

**CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present:- Mr. Mani Ram Verma, Advocate  
for the petitioner.

**JAISHREE THAKUR, J.**

Crl. Misc. No. 12691 of 2018

1. This is an application filed for condonation of 19 days delay in filing the instant criminal revision petition. In the said application, it is stated that the petitioner was not correctly advised by the counsel to challenge the order of the Additional Sessions Judge dated 13.12.2017 before the High Court, which resulted in a delay in filing of the said revision petition.

2. Heard the counsel for the petitioner and for the reasons mentioned therein, the delay in filing is hereby condoned.

**CRR 1247 of 2018.**

1. The petitioner herein seeks to challenge the impugned order dated 13.12.2017 passed by Additional Sessions Judge, Bhiwani, by which the order of the trial court has been set aside, allowing respondent No. 1 and

No.4 to be served in a petition filed under the Protection of Women from Domestic Violence Act, 2005 (for short “**the Domestic Violence Act**”) through respondent 2.

2. In brief, the facts are that the petitioner filed a complaint under Section 12 of the Domestic Violence Act against her husband Sunil respondent No. 1 and 5 others. Upon notice, Dharambir—respondent no 2, the father-in-law appeared, however service on husband and his brother respondent No. 4 remained unaffected since they were residing in Australia. The trial court directed that service upon respondent No. 1 and 4 to be affected through respondent No. 2 being his real sons, on the premise that they would be aware of the proceedings pending in the courts under the Domestic Violence Act. This order was challenged by Dharambir in appeal before the Additional Sessions Judge, Bhiwani, on the ground that he was not in contact with his sons and, therefore, would not be in a position to effect service upon them. The said appeal was allowed by the impugned order dated 13.12.2017. Aggrieved the instant criminal revision petition has been filed.

3. Mr. Mani Ram Verma, learned advocate appearing on behalf of the petitioner, contends that Dharambir—respondent No. 2 (in the main complaint) is the father of Sunil, the husband of the petitioner herein and, therefore, being joint in residence, service could be affected upon the unserved respondents and there was no error in the order of the trial court.

4. I have heard the counsel for the petitioner and find little merit in the arguments so advanced.

5. It is an admitted fact that respondent No. 1, in the complaint

case is Sunil, husband of the petitioner herein, who is currently residing in Australia. Service of the complaint has to be affected upon him at his known address, which is in Australia. The Additional Session Judge, while allowing the appeal of Dharambir, rightly held that it is the duty of the complainant to get service affected upon the respondents while holding that the appellant, who is respondent No. 2 in the main case, could not be forced to send notices to respondent No. 1 and 4 through his own mode and channel and give a report qua service. The respondent No. 2—Dharambir and respondents No. 1 and 4 are not joint in residence, therefore, service upon Dharambir could not be deemed to be service upon respondent No. 1 and 4 as well. The mode of service has to be effected upon the unserved respondents as prescribed in the statutes and is to be adhered to.

6. By the impugned order the Additional Sessions Judge rightly held that service is to be affected upon respondents as per law. Finding no infirmity in the orders so impugned, the revision petition stands dismissed.

6.4.2018  
*prem*

(JAISHREE THAKUR)  
JUDGE

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|---------------------------|-----|
| Whether speaking/reasoned | Yes |
| Whether reportable        | No  |