

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

Crl. Misc. No. 19321 of 2018 in/and
Crl. Revision No. 1826 of 2018 (O&M)
Date of Decision: 12.9.2018

Simarjit Kaur

...Petitioner

Versus

Gurjant Singh and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Vivek K. Thakur, Advocate
for the petitioner.

None for respondent No.1.

Mr. Rakesh Kumar, Advocate,
for respondent No.2 and 3.

JAISHREE THAKUR, J. (Oral)

Crl. Misc. No. 19321 of 2018

Heard.

For the reasons stated in the application, the delay in filing the
revision is condoned.

Main case

This is a revision that has been filed seeking to challenge the
order dated 28.10.2017 passed by the Additional Sessions Judge,
Kapurthala, setting aside the judgment dated 27.7.2016 passed by the
learned Judicial Magistrate Ist Class, Kapurthala, and remanding the matter
back to the lower court to decide the matter of rental afresh.

The facts, in brief, are that the marriage was solemnized between the petitioner herein with one Gurjant Singh on 27.2.2008. However, a matrimonial dispute arose between the parties, which eventually resulted in filing of an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005. In the said application, the petitioner arrayed her husband, father-in-law, mother-in-law and sister-in-law as respondents No.1 to 4 respectively. In the said proceedings, husband—Gurjant Singh did not put in appearance and was proceeded ex-exparte. While deciding the said matter, husband—respondent No.1 was held liable to pay maintenance to the petitioner to the tune of ₹5,000/- to the petitioner and ₹3,000/- to the minor daughter, namely Gurbani. The husband was also directed to pay compensation and damages to the extent of ₹50,000/- to the petitioner. Respondents No. 2 and 3 were also directed to pay the rental amount of ₹3,000/- to the petitioner for alternative accommodation. Respondents No. 1, 2 and 3 i.e. husband, father-in-law and mother-in-law respectively were also directed not to cause any domestic violence on the person of the petitioner in future.

Aggrieved by the order, respondents No. 2 and 3 preferred an appeal, challenging the order limited to the extent whereby they had been directed to pay rental amount ₹3,000/- to the petitioner.

While deciding the appeal, Additional Sessions Judge, Kapurthala, remanded back the matter (without securing the presence of the petitioner herein) to the lower court for deciding the matter afresh, after

referring to the law laid down in **S.R. Batra and another Vs. Smt. Taruna Batra 2007 (1) CCC 351 (SC)**.

Learned counsel appearing for the petitioner herein contends that without securing presence of the petitioner, the remand order has been passed and a reading of the said order would reflect that the entire order passed by the Judicial Magistrate Ist Class, Kapurthala, has been set aside for a fresh look into the matter, as per law laid down in **S.R. Batra's case (supra)**.

Notice of motion was issued and respondents No. 2 and 3 has put in appearance and filed reply.

Learned counsel for respondents No. 2 and 3 very fairly concedes that the only challenge in the appeal was to the direction to respondents No. 2 and 3 to pay the rental amount of ₹3,000/- to the petitioner herein. He also submits that the respondents No. 2 and 3 had not challenged the order passed against the husband of the petitioner herein. It is contended that the matter has been remanded back with the direction to the lower court to look at the law as laid down in **S.R. Batra's case (supra)** before deciding the question of rent to be paid by the respondents.

I have heard learned counsel for the parties and in view of the fair submission made by learned counsel for respondents No. 2 and 3, the order dated 28.10.2017 is clarified to the extent that it is only the question regarding payment of rental by respondents No. 2 and 3 to the petitioner would be decided afresh, since respondent No.1—husband, who has been fastened with the liability to pay maintenance to the petitioner to the tune of

₹5,000/- and ₹3,000/- to the minor daughter, namely Gurbani and also to pay compensation and damages to the extent of ₹50,000/- to the petitioner was never questioned.

With the above clarification, the revision petition stands disposed of.

12.9.2018
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No