

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

CRR No.1990 of 2018 (O&M)

Date of Decision: September 05, 2018

Gurpreet Kaur @ Shelly and others

...Petitioners

Versus

Sonia and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Nandal Jindal, Advocate
for the petitioners.

JAISHREE THAKUR, J. (Oral)

The instant criminal revision has been filed against the judgment dated 10.04.2018 passed by the learned Addl. Sessions Judges, Amritsar, allowing the appeal and reversing the finding of the learned Judicial Magistrate Ist Class, Amritsar recorded in the order dated 19.01.2018 dismissing the application for dropping the proceedings filed by respondent-Sonia.

In short, the facts of the case are that, a marriage of Gurpreet Kaur @ Shelly (petitioner No.1) was solemnized with Parminder Singh (proforma respondent No.2) on 22.12.1996 at Ludhiana as per Sikh rites and rituals, however, the said marriage could not survive the test of time, which resulted in filing a petition under Section 12 of Protection of Women from Domestic Violence Act (for short 'the DV Act') by the petitioners herein.

After the summoning order has been passed in the said complaint under the DV Act, respondent No.1 Sonia herein, who is the sister of husband of petitioner No.1 (i.e. sister in law of petitioner No.1) moved an application for dropping the proceedings against her, which application came to be dismissed by the Judicial Magistrate Ist Class, Amritsar by an order dated 19.01.2018. Feeling aggrieved, respondent No.1 Sonia herein preferred an appeal, challenging the said order dated 19.01.2018, which appeal came to be allowed by the impugned order dated 10.04.2018 by the Additional Sessions Judge, Amritsar. Being aggrieved against the said order passed by the Additional Sessions Judge, Amritsar, the instant criminal revision has been filed.

Learned counsel appearing on behalf of the petitioners argues that it is an admitted fact that after the death of mother-in-law of petitioner No.1 herein, respondent No.1 started residing at Amritsar, after leaving her own matrimonial home at Delhi and even restrained the petitioner No.1 from entering into her own kitchen. It is contended that there exists a domestic relationship with respondent No.1 but this fact has not been considered by the Appellate Court. It is also submitted that respondent No.1 is one of the co-sharer in the matrimonial home, but this fact has also not been considered by the Appellate Court.

I have have heard learned counsel for the petitioner, apart from perusing the pleadings and the orders passed by the courts below.

While allowing the appeal filed by respondent No.1, the Additional Sessions Judge, Amritsar has observed as under:

“A perusal of the record reveals that through their

petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005, the present respondents had sought the relief of interim maintenance from Parminder Singh; and also restraining Parminder Singh and his other family members from selling the matrimonial home. The allegations made against the present appellant, who is the sister-in-law of Gurpreet Kaur, are of general nature only. There is nothing available on record to show that the appellant is a co-sharer in the house in question on account of which she may be capable of selling her own share, if any therein. The present appellant does not appear to be concerned with the payment of maintenance to respondent No.1 Gurpreet Kaur and her children and also with the alienation of the matrimonial home. The only other remedy sought by the present respondents was an injunction restraining Parminder Singh and his relatives from forcibly turning them (respondents) out of the matrimonial house. Keeping in view the attending facts of the case, this court is of the view that if the appellant or any other family member of Parminder Singh takes the law into her/his own hands or conducts herself/himself in such a manner which amounts to violation of any provision of law, the same would be at the own risk and peril of such a wrongdoer. xxx xxx xxx.

*In the instant case, there is nothing available on record to show that any “domestic incident report” had been made regarding any act or omission on the part of appellant Sonia. As the allegations made against her are of general nature only and in view of the other attending circumstances of the case, this court is of the considered view that as laid down in the case of “**Anoop and others**” (*supra*), the present appellant also appears to have been*

unduly dragged in the petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005. Resultantly, without prejudice to the rights of the present respondents to have recourse to the remedies to proceed against the appellant in accordance with the provisions of law for the commission of any specific unlawful act or any other misconduct on the part of the appellant, the present appeal is allowed.....”

It is an admitted fact that respondent No.1 is the married sister-in-law of the petitioner No.1. The documents including the copies of the passport, identity card, Aadhar card and PAN card clearly show that respondent No.1 is residing at Rajouri Garden, New Delhi. The lower Appellate Court has taken note of the fact that there are only general allegations levelled against respondent No.1 Sonia. There is nothing on record to connect the respondent No.1 Sonia, who was married in the year 1992 at Delhi, with the matrimonial life of petitioner No.1 (wife) and respondent no.2 (husband), who were residing at Amritsar. Learned counsel for the petitioner fails to point out as to how the findings recorded by the lower Appellate Court are not sustainable.

In view of the above, the criminal revision in hand is hereby dismissed, being devoid of any merits.

September 05, 2018

vijay saini

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No