

\$~8

IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 6th September, 2018

+ CRL. M.C. 4352/2015 & CrI.M.A. 15396/2015, 6114/2016

VIJAY LAXMI & ANR. Petitioners

Through: Mr. Ashish Azad, Adv.

Versus

MADHU JOSHI & ORS. Respondents

Through: Mr. Rajiv Raheja, Adv. for R-1
& 2.
Mr. Ravi Nayak, APP for the
State.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioners are before the court of Metropolitan Magistrate as second and third respondents in the case (CC No. 1321/1/2012) instituted by the first and second respondents herein invoking the provision contained in Section 12 of Protection of Women from Domestic Violence Act, 2005. In addition, Lalit Mohan Joshi, husband of the first respondent, he being the father of the second respondent and son of the first petitioner, was also shown in the array, allegations having been made against him, and the petitioners, of they having indulged in certain acts of commission and omission, the same

constituting “*domestic violence*”, prayers having been made with reference to remedies available under Sections 12, 18, 19, 20 and 22 of the said law. Lalit Mohan Joshi, the husband of the first respondent died on 03.01.2015 during the pendency of the said case which is continued to be prosecuted against the petitioners.

2. The petitioners have approached this Court under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C) to seek quashing of the above said proceedings on the grounds, *inter alia*, that they are senior citizens, the allegations against them in the case are small and bald, no case of domestic violence having been properly brought out, the intention being to cause harassment and to gain wrongful possession of their property. Reference is made to continued occupation of certain portion of the residential property of the first petitioner by the respondents, it being indicated that the petitioners intend to bring a civil suit for recovery of possession, *mesne* profits and injunction. It was clarified at the hearing that such a suit has since been filed.

3. To say the least, the petition is wholly misconceived. The questions of fact cannot ordinarily and, in absence of evidence of unimpeachable character to the contrary, be properly inquired into or adjudicated upon in the jurisdiction of Section 482 Cr.P.C. [see *Rajiv Thapar and Ors. Vs. Madan Lal Kapoor*, (2013) 3 SCC 330]

4. The fact that Lalit Mohan Joshi, the husband of the first respondent has died cannot result in the criminal proceedings coming to an end. After all, allegations have been made also against the petitioners who are related to the respondents by marriage or birth.

The claim of the respondents in the said case, *inter alia*, for compensation for the injuries suffered as a result of the alleged acts of domestic violence act cannot be brushed aside. The same would need to be inquired into and adjudicated upon in accordance with law.

5. The petition and the applications are dismissed.

R.K.GAUBA, J.

SEPTEMBER 06, 2018

nk

