

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

CRM-M No.24835 of 2016

Date of decision: 30th October, 2019

Ritu Chaudhary @ Ritu Jaglan

... Petitioner

Versus

Dr. Satvinder Singh Choudhary & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Parminder Singh, Advocate for the petitioner.
Mr. Kanwaljit Singh, Senior Advocate with
Mr. Nirav Sharma, Advocate for respondents No.1 to 3.
None for respondent No.4.

FATEH DEEP SINGH, J.

The brief facts that led to the institution of present petition under Section 482 Cr.P.C. by petitioner wife Ritu Chaudhary alias Ritu Jaglan that need to be summarized, are as follows:-

Petitioner Ritu Chaudhary alias Ritu Jaglan entered into a matrimonial alliance with respondent No.1 Dr. Satvinder Singh Chaudhary on 28.03.2004. Respondent No.2 Er. Bichha Ram Chaudhary is the father and respondent No.3 Phoolwati happens to be mother of respondent No.1, whereas respondent No.4 is claimed to be the alleged second wife of respondent No.1. During the course of their marriage, a matrimonial dispute ensued and it is the claim of the wife that in spite of having spent ₹14.00 lacs at the marriage by her family, where costly articles including gold ornaments were given, the husband and his family

were not happy. It is duly conceded that the couple resided together for a few months and around June/July 2004 there has been renunciation of this relationship and the wife thereafter had been residing separately. As a spark to ignite and give flame to this dispute, a number of cases were instituted on the civil as well as criminal side between the parties. The petitioner wife filed an application on 11.11.2013 (Annexure P1) under the Protection of Women from Domestic Violence Act, 2005 (in short, 'the Act') besides claiming different reliefs of maintenance etc. Right to live in the matrimonial home was one of the primary reliefs that were sought by the petitioner wife. The Court of learned Judicial Magistrate 1st Class, Karnal while disposing off the application of the wife restraining the respondent husband and in-laws from selling, alienating or disposing off the shared household situated in Karnal, vide impugned order dated 19.09.2014 dismissed the application to that effect. Against that finding the wife filed an appeal before the Court of learned Additional Sessions Judge, Karnal which too stood dismissed vide orders date 06.07.2016 (Annexure P7) which are under assail before this Court.

Upon hearing Mr. Parminder Singh, Advocate for the petitioner; Mr. Kanwaljit Singh, Senior Advocate assisted by Mr. Nirav Sharma, Advocate representing respondents No.1 to 3 and on perusal of the records of the case.

It is duly conceded and so is there on the records that the house in question for which the relief has been sought by the wife, belongs to Er.Bichha Ram Chaudhary respondent No.2, father of

Dr.Satvinder Singh Chaudhary and who has placed on record proof to that effect by way of conveyance deed. The submissions of learned counsel for the petitioner Mr.Parminder Singh, Advocate, that since it was a matrimonial home the petitioner wife cannot be thrown out of the same by alienating the same, have been well controverted by Mr.Kanwaljit Singh, Senior Advocate assisted by Mr. Nirav Sharma, Advocate representing respondents No.1 to 3 arguing that the petitioner had admittedly never stayed there for a long time and stay for a few months does not bestow upon her right to this alleged claim to be a shared household.

Appreciating the arguments, it cannot be displaced by Mr.Parminder Singh, Advocate representing the petitioner that the house is under occupation and owned by respondent No.2 Er. Bichha Ram Chaudhary and his wife Phoolwati whereas the husband respondent No.1 Dr.Satvinder Singh Chaudhary is stated to be posted at the place of his job in Rohtak. The petitioner wife in her stand claims that after her marriage on 28.03.2004, she resided in the said house till July 2004, when the claim of the respondents side is that she left on her own on 30.06.2004 thus, only for a period of around 3-4 months.

The definition of 'shared household' is well enumerated in Section 2(s) of the Protection of Women from Domestic Violence Act, 2005 which is reproduced as below to lay emphasis:-

“2. Definitions.

(s) 'shared household' means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household;”

Thus, to the mind of this Court, the house in question exclusively belongs to the parents in-law of the petitioner wife and where she has lived only for a short period and therefore, such a short stay of the petitioner, especially when the husband is working at a different far off place, would not mean or could be even loosely construed that she has lived in that house and was a shared household of the couple. More so, the relief which is sought in the application which stood dismissed by the learned Judicial Magistrate 1st Class, was restraining the respondents from selling, alienating or disposing off the shared household and which is not the purpose and intent of the Act. The legitimate owner cannot be restrained from such an act which may come during the course of time but that does not mean that the wife is not entitled to an accommodation which the husband has an obligation under the law. While considering

the plea of the petitioner wife, the Court below taking into consideration that the wife is a working-hand, posted as an Assistant Professor in Indri, has drawn a conclusion to the effect that she was not entitled to any such order or restraint against the respondents. Mr.Parminder Singh, learned counsel for the petitioner could not convince this Court how the orders under assail were blatantly illegal and necessitated intervention by this Court to meet the ends of justice. Finding no illegality or perversity in these findings, this Court is not inclined to show indulgence. The present petition stands dismissed in those terms.

(FATEH DEEP SINGH)
JUDGE

October 30, 2019
rps

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