

117.

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

I. CRM-M-37779-2015 (O&M)
Date of decision: 09.01.2019

SANTOSH ...Petitioner.

Versus

MONIKA & ORS ...Respondents.

II. CRM-M-1199-2016

PRITHVI SINGH BISHNOI ...Petitioner.

Versus

MONIKA & ORS ...Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. D.K. Tuteja, Advocate,
for the petitioner (s).

Mr. Vivek Khatri, Advocate,
for respondent No.1.

HARI PAL VERMA, J. (Oral)

This order shall dispose of two petitions i.e. **CRM-M-37779-2015** titled as ***Santosh wife of Prithvi Singh Bishnoi through her next friend/court guardian Sh. Prithvi Singh Bishnoi Versus Monika and others*** and **CRM-M-1199-2016** titled as ***Prithvi Singh Bishnoi Versus Monika and others***. However, for brevity, the facts are being taken from **CRM-M-37779-2015**.

Challenge in the petition is to quash the order dated 10.08.2015 passed by learned Judicial Magistrate Ist Class, Hisar, and the order dated 25.09.2015 passed by learned Additional Sessions Judge, Hisar, whereby her

(Santosh) appeal against the judgment dated 10.08.2015 passed by learned Judicial Magistrate Ist Class, Hisar, was dismissed.

Briefly stated, respondent No.1-Monika filed an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short, 'the Act') read with Sections 18 to 23 of the said Act, on the ground that she is the legally wedded wife of respondent No.2-Kapil Bishnoi. The marriage was solemnized on 28.11.2013 at Hisar. The petitioner-Santosh is the mother-in-law, whereas Prithvi Singh Bishnoi is father-in-law of the complainant-Monika i.e. respondent No.1. On 28.11.2013, after the marriage, the complainant was taken to House No.1399, Sector 14, Hisar, where she had been living with the respondents (within the meaning of "shared household" of Section 2 (s) of the Act) and where the petitioners had committed cruelty with the complainant. They had demanded and accepted dowry, misappropriated the dowry articles entrusted to them, abused and threatened her to death. The complainant is in possession of a room in House No.1399, Sector 14, Hisar, on the ground floor where she has been using the kitchen and some of her articles are still lying in the said room. Respondent No.2-Kapil Bishnoi is a Software Engineer and is employed in Infosys, Chandigarh, whereas Prithvi Singh Bishnoi (father-in-law of complainant) has retired as a Zonal Marketing Enforcement Officer, Haryana State Agricultural Marketing Board, and owns agricultural land of about 15 acres at Village Adampur, District Hisar.

Vide order dated 10.08.2015, learned Magistrate had allowed the complainant to live in a room on the ground floor and also to use the kitchen and bathroom of House No.1399, Sector 14, Hisar. The petitioners (accused in the complaint) were restrained from alienating the house till the final

decision of the case. The relevant protection given to the complainant reads as under:-

“12. Therefore, in view of my above discussion, since the marriage of applicant with respondent No.1 was an arranged marriage, the applicant cannot be restrained from residing in her matrimonial house on the ground that the house in question is belonging to her mother-in-law. Hence, the applicant is hereby allowed to live in a room on the ground floor and also allowed to use kitchen and bathroom of House No.1399, Sector-14, Hisar. The respondents are also restrained from alienating the house in question, till the final decision of this case. Relief for interim maintenance has not been sought for in this case by the petitioner/applicant.

13. Following protection order is also passed in favour of the applicant against the respondents from committing any act of domestic violence:

- . Aiding or abetting in the commission of acts of domestic violence;*
- . Entering the place of employment of the petitioner;*
- . Alienating any assets, operating bank lockers or bank accounts used or held or enjoyed by the parties either jointly or singly by the respondent, including her stridhan or any other property held either jointly by the parties or separately by them without the leave of the court;*
- . Causing any violence to the dependents, other relatives or any person who give the petitioner assistance from domestic violence;*

A copy of this order be sent to Protection Officer as well as SHO concerned directing him to register a case on filing of an application by the applicant in case of her torture at the hands of the respondents.”

The said order passed by learned Magistrate was made the subject matter of challenge by way of appeal before the learned Additional Sessions Judge, Hisar, which was dismissed.

Learned counsel for the parties are *ad idem* that as there was no interim direction in the present petitions, the trial in the case continued and now it is at the fag end and the case is now fixed for 15.01.2019 for final arguments.

Since it is by virtue of an interim arrangement, learned Magistrate vide his order dated 10.08.2015 had allowed the respondent-complainant to stay in the matrimonial house on the ground floor which is owned by Santosh (petitioner herein), considering the advance stage of the trial, present petitions are hereby disposed of with a direction that the learned Magistrate shall pass an order without being influenced by any observation made in the order dated 10.08.2015 and the judgment dated 25.09.2015 passed by learned Additional Sessions Judge, Hisar, whereby the appeal against the order dated 10.08.2015 was dismissed.

(HARI PAL VERMA)
JUDGE

09.01.2019

sanjeev

Whether speaking/reasoned Yes/No.

Whether Reportable: Yes/No.