

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

123

CRM-M-41644-2018

Date of Decision:03.09.2019

Mandeep Kaur

.....Petitioner

Versus

Nirmaljeet Kaur and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. G.S. Sandhu, Advocate,
for the petitioner.

Mr. Charanjit Sharma, Advocate,
for respondent No.1.

Mr. Sukhbeer Singh, AAG, Punjab.

HARI PAL VERMA, J.(Oral)

Petitioner has filed the present petition under Section 482 Cr.P.C. for quashing the complaint No.74 dated 02.07.2018 filed by respondent No.1 under Section 12 read with Sections 17, 18, 19, 20 and 22 of the Protection of Women from Domestic Violence Act, 2005 (for brevity “the D.V. Act”), titled as “Nirmaljeet Kaur Versus Satish Kumar and others”, pending in the Court of learned Chief Judicial Magistrate, Ferozepur.

Learned counsel for the petitioner has argued that respondent No.1 has filed an application under Section 12 read with Sections 17, 18, 19, 20 and 22 of the D.V. Act, and the petitioner has also been made as an accused in the case. The marriage between respondent No.1-Nirmaljeet

Kaur/complainant and Satish Kumar was solemnized on 16.02.2014 and they lived together as husband and wife, however, out of this wedlock, no child was born to them. In the complaint filed by the complainant, respondent Nos.2 and 3 are in-laws, respondent Nos.4 and 5 are brothers-in-law of the complainant. Respondent No.6-Poonam is sister-in-law of complainant (wife of Sandeep Kumar). The petitioner Mandeep Kaur who has been arrayed as respondent No.7 in the application so filed by respondent No.1 is none else but a friend of Satish Kumar, husband of complainant.

Learned counsel for the petitioner has argued that there is no allegation against the petitioner, so as to invoke the proceedings against her under the D.V. Act. Merely because the petitioner is a friend of Satish Kumar, husband of respondent No.1 and has been visiting the family in routine manner does not give any cause to respondent No.1 to proceed against her through the complaint.

Learned counsel for respondent No.1/complainant has argued that the petitioner is instrumental in harassing her and it is on her instigation the husband is harassing her (respondent No.1/complainant).

Heard learned counsel for the parties.

The precise question in this petition is as to whether friend of the husband against whom there are allegations of harassment can be proceeded under the D.V. Act?

The relevant provisions to deal such case under the D.V. Act i.e. Section 2(f) and (q) are reproduced as under:-

Section 2(f) in The Protection of Women from Domestic Violence Act, 2005

“2(f) “domestic relationship” means a relationship between

two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family;

Section 2(q)-The Protection of Women from Domestic Violence Act, 2005

“2(q) “respondent” means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act:

Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner.”

Section 2(q) of the D.V. Act provides that only that person can be arrayed as a respondent who is or has been in a domestic relationship, any adult male person who is in domestic relationship with the aggrieved person can be arrayed as a respondent.

Similarly, the word “domestic relationship” has also been defined in Section 2(f) of the D.V. Act.

The Apex Court in case of **U. Suvetha Versus State, 2009-LAWS(SC)-5-221** has held that a girl friend of the husband does not strictly falls within the ambit of Section 2(q) of D.V. Act, and such complaint filed by complainant against the friend of husband is liable to be quashed.

On similar facts, the Hon'ble Karnataka High Court in **Smt. T.Meenakshi @ Latha Versus Smt. Pushpa** has quashed the proceedings under the D.V. Act qua the girl friend of husband on the ground that the word 'respondent' does not include girl friend of the husband of aggrieved

person. Therefore, the proceedings as relating to petitioner therein are not

maintainable.

Admittedly, there is no relationship between the petitioner and respondent No.1 as at no point of time they lived together in a shared household. Thus, the petitioner and respondent No.1 being not in relationship in the nature of marriage, dependent or family member living together as a joint family, this Court finds that the application filed by respondent No.1 against the petitioner is not maintainable. Therefore, this Court is of the considered view that filing of complaint by respondent No.1 is nothing but a glaring instance of abuse of process of law.

Accordingly, the present petition is allowed and the complaint filed by respondent No.1 qua the petitioner is hereby quashed.

September 03, 2019
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(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No