

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

CRM-M-6117-2014

Date of decision: 24.09.2019

Ashok Kumar

... Petitioner

Versus

Priya Dogra

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Sandeep Singh Ghangas, Advocate,
 for the petitioner.

Mr. Ashwani Gaur, Advocate,
 for the respondent.

HARI PAL VERMA, J.(Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing the complaint/application No.20/13 dated 29.02.2012 under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short, 'DV Act') titled as ***Priya Dogra vs. Ashok Kumar*** (Annexure P-1), summoning order dated 29.02.2012 passed by learned Judicial Magistrate 1st Class, Panipat (Annexure P-5) as well as the order dated 03.01.2014 passed by learned Judicial Magistrate 1st Class, Panipat (Annexure P-7), vide which the application filed by the petitioner for recalling the order dated 29.02.2012 and for dismissal of complaint, was dismissed.

Briefly stated, respondent-complainant had filed a

complaint against the petitioner under Section 12 of the DV Act with the averments that she was married to Nishan Dogra @ Rashu, son of the petitioner. The petitioner is father-in-law of the respondent-complainant. Soon after the marriage, the complainant found that the petitioner is a greedy person and was not satisfied with the dowry articles given by her parents in the marriage. The petitioner had bad eyes on her (complainant). She told all this to her husband and thereafter, they started residing separately in House No.1223, Ward No.7, Panipat, but the petitioner used to threat them that he will dispossess them from the said house and will also make relations with the complainant as and when he will find a suitable opportunity. On 23.02.2012 at about 4.15 PM when the complainant's husband was outside, the petitioner forcibly entered the house and tried to outrage her modesty. The complainant made noise and called her husband. Her husband came and rescued her. The petitioner also caused injuries to the complainant's husband. The matter was reported to the police, but the police had not taken any action against the petitioner.

Learned counsel for the petitioner has argued that the allegations made by the respondent-complainant were duly investigated/enquired into by the Protection Officer and vide report dated 15.05.2012 it was found that the matter does not falls within the ambit of DV Act. He states that for the same alleged incident, the respondent had also filed a complaint before the Superintendent of Police, Panipat, taking altogether a different stand that the petitioner along with 2-3 persons having sticks and iron bars in their hands came to

her house and gave beatings to her and her husband. The said complaint was enquired into by the Police Public Coordination Committee including SHO Police Station City, Panipat and ASI Saroj Bala and it was found the allegations made in the complaint were false and baseless.

He further states that on 23.02.2012, the husband of the complainant had caused injuries to the petitioner and accordingly the petitioner reported the matter to the police vide DDR No. 26 dated 19.03.2012 wherein while taking preventive measure, the proceedings u/s 107/150/151 Cr.P.C. were initiated. The present complaint filed by the respondent under DV Act is just a counter blast to the complaint filed by the petitioner. He has produced photocopies of judgment and decree dated 02.11.2015 passed in civil suit No. 159 of 2013, titled as ***Rashu @ Nishant vs. Ashok Kumar and others*** and judgment dated 12.07.2018 passed in Civil Appeal No.141 of 2015 which are taken on record as **Mark 'A'** and **'B'** respectively.

Learned counsel for the respondent has argued that the petitioner has rightly been summoned by the learned Magistrate in the complaint. The petitioner has filed an application for recalling the summoning order which was dismissed vide order dated 03.01.2014 by the learned Magistrate. The petitioner has an equally efficacious remedy of revision against the impugned order, however, without availing the same he has approached this Court under section 482 Cr.P.C. which is not maintainable. He states that present complaint cannot be quashed as same is at the summoning stage and at the most, the petitioner can bring on record all these documents at appropriate stage during the course of

trial.

I have heard counsel for the parties and perused the paper book.

The matter was investigated/enquired into by the Protection Officer and vide report dated 15.05.2012, the Protection Officer has returned a categorical finding that the complainant has no grievance against her husband and they are living separately in the matrimonial home. He has also recorded a finding that the matter does not falls within the ambit of DV Act and the dispute between the parties, if any, is civil in nature. The provisions of DV Act are only meant, to protect the women from domestic violence and are not to be used to settle property dispute which are civil in nature.

The husband of complainant had already filed a civil suit bearing No. 159 of 2013 tilted as ***Rashu @ Nishant vs. Ashok Kumar and others*** for declaration to the effect that he is in possession of property/plot No. 920/7, M.C. No. 1223, Ward No. 7, situated within the municipal limits of Panipat. The said suit was dismissed by the learned Civil Judge (Junior Division) Panipat vide judgment and decree dated 02.11.2015. Even Civil Appeal bearing No. 141 of 2015 filed by her husband against the judgment and decree dated 02.11.2015 has also been dismissed by the learned Additional District Judge, Panipat vide judgment dated 12.07.2018.

Admittedly, the land was allotted by the Wakf Board in the name of the mother of the petitioner. After her death, this property was transferred in the name of the petitioner. Under the garb of present

complaint, an attempt is being made to enforce the property rights. The filing of present complaint under the DV Act is nothing but a total abuse of process of law. The very object of filing the complaint does reflect that the sole motive of the respondent was to grab the property which has fallen in the name of petitioner after the death of his mother as is evident from the civil litigation between the parties.

The arguments of counsel for the respondent, as regard the remedy available to the petitioner, in view of the judgment passed by Hon'ble Apex Court in ***Prabhu Chawla versus State of Rajasthan and another, 2016(4) RCR (Criminal) 270***, this court finds that the present petition is maintainable in the present form.

In view of the aforesaid, I am of the view that the complaint filed by the respondent is completely misconceived and same is liable to be dismissed. In the facts and circumstances and the background taken note of hereinabove, I am also of the view that the respondent should be subjected to appropriate costs for abusing the process of the Court.

Accordingly, the present petition is allowed and the complaint/application No.20/13 dated 29.02.2012 under Section 12 of the DV Act titled as ***Priya Dogra vs. Ashok Kumar*** (Annexure P-1) along with summoning order dated 29.02.2012 passed by learned Judicial Magistrate 1st Class, Panipat (Annexure P-5) are hereby set aside.

The respondent/complainant-Priya Dogra is burdened with a costs of Rs.10,000/-. She is directed to deposit the same with the Judicial Magistrate 1st Class Panipat, before whom, the complaint is

pending, within a period of one month from today. On deposit of such cost, the Magistrate shall release the same to the petitioner-Ashok Kumar.

(HARI PAL VERMA)
JUDGE

24.09.2019
SANJEEV

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