

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

(1) CRR No.3791 of 2017 (O&M).
Decided on:- February 25, 2019.

Ajay Chhabra.

.....Petitioner.

Versus

Dr. Jyoti Chhabra.

.....Respondent.

(2) CRR No.4008 of 2017.

Jyoti Chhabra.

.....Petitioner.

Versus

Ajay Chhabra.

.....Respondent.

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

Present:- Mr. Aman Arora , Advocate
for the petitioner in CRR No.3791 of 2017 and
for the respondent in CRR No.4008 of 2017.

Mr. H.S. Saini, Advocate
for the petitioner in CRR No.4008 of 2017 and
for the respondent in CRR No.3791 of 2017.

HARI PAL VERMA, J.

This order shall dispose of the aforementioned two criminal revision petitions as the same have been filed against the common order dated 08.08.2017 passed by learned Additional Sessions Judge, Panchkula, whereby

the appeal filed by the husband against the order dated 23.12.2016 passed by learned Judicial Magistrate 1st Class, Panchkula, was partly allowed.

However, for convenience and clarity, the detailed order is being passed in ***CRR No.3791 of 2017*** titled as ***Ajay Chhabra Versus Dr. Jyoti Chhabra***.

Briefly stated, the respondent-wife Jyoti Chhabra filed an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short, the Domestic Violence Act) against petitioner-husband Ajay Chhabra and his other family members, before the court of Judicial Magistrate 1st Class, Panchkula. As per the application, the respondent was married with the petitioner on 22.01.2004 and out of this wedlock, a son was born to them on 18.08.2005. As she was subjected to physical and mental cruelty and domestic violence on account of insufficient dowry, she reported the matter to the police, but no action was taken by the police. Therefore, she was constrained to file application before the Magistrate under Section 12 of the Domestic Violence Act, 2005.

During pendency of the aforesaid application, the respondent-wife also moved an application under Section 23 of the Domestic Violence Act for grant of interim order praying therein that the petitioner-husband and his family members be restrained from committing any domestic violence and not to enter the place of employment of the respondent-wife and not to alienate any assets, bank lockers used or held or enjoyed by both the parties jointly including Stridhan as per Section 18(e) of the Domestic Violence Act. The respondent-wife further prayed that the petitioner-husband be restrained

to cause violence to the son of the respondent-wife and her parental family and further to provide alternative accommodation for her and her minor son or to pay rent for the same as provided under Section 18(f) of the Domestic Violence Act. In addition thereof, prayer was also made to direct the petitioner-husband to pay Rs.26,000/- per month as maintenance for food and basic necessities for the respondent-wife and her minor son, who is studying in Hansraj Public School, Panchkula.

These averments were denied by the petitioner-husband while stating that the respondent-wife is B.A.M.S., runs a chemist shop and is earning Rs.60,000/- per month. The respondent-wife and the petitioner-husband had started living separately from the parents of the petitioner-husband.

Learned Magistrate vide order dated 23.12.2016 has directed the petitioner-husband to provide a separate accommodation to the respondent-wife for which the petitioner is liable to pay a sum of Rs.15,000/- per month on submission of rent note by the respondent-wife.

The said order dated 23.12.2016 passed by learned Magistrate was made subject matter of challenge before learned Additional Sessions Judge, Panchkula by way of an appeal filed by the petitioner-husband. But vide impugned order dated 08.08.2017, learned Additional Sessions Judge, Panchkula had partly allowed the appeal and modified the order passed by learned Magistrate to the effect that the petitioner-husband shall pay a sum of Rs.10,000/- per month for providing separate accommodation to the respondent-wife on submission of rent note by her.

Aggrieved against the aforesaid order dated 08.08.2017 passed by learned Additional Sessions Judge, Panchkula, both the parties have filed present criminal revision petitions.

Learned counsel for the petitioner-husband has argued that the respondent-wife is a qualified B.A.M.S. doctor running her own medical clinic at Maheshpur and chemist shop at Majri Chowk and is earning more than Rs.60,000/- per month. She has produced a false rent agreement dated 10.01.2017 between Sumitra Devi (landlady) and the respondent-wife as tenant. As per the rent note, the respondent-wife is staying with her mother in the premises, but the landlady, who agreed to take rent from the respondent-wife happens to be none-else, but the mother of the respondent-wife and the rent for the said premises has been assessed as Rs.15,000/- per month. The behaviour of the respondent-wife debars her from claiming separate accommodation as she is misusing the provisions of law while creating terror in the mind of the petitioner. The petitioner-husband is working as Lab Technician in Food and Drug Department of Punjab and presently residing in a rented accommodation at Balongi. He is not in a position to pay an amount of Rs.10,000/- per month for providing separate accommodation to the respondent-wife. The rent so awarded by the revisionary Court is on higher side. The petitioner is residing only in one room accommodation and is unable to provide separate accommodation or to pay Rs.10,000/- per month for rental accommodation to the respondent-wife on account of his financial constraints.

Similarly, in the separate criminal revision petition filed by the respondent-wife, learned counsel for the respondent-wife has argued that the petitioner-husband is neither paying maintenance to the respondent-wife nor to the minor son Jatin, who is studying in 7th class in Hansraj Public School, Panchkula. The entire expenses of school fees, books, transport etc. are being borne by the respondent-wife. As per the fee receipt dated 02.04.2016, the respondent-wife has paid Rs.41,950/- as school charges for the admission of her son in 6th class and thereafter, vide receipts dated 05.07.2016 and 02.01.2017, she has paid Rs.7,750/- each as quarterly school charges. She is spending more than Rs.1 lakh annually for the study of her son for which she was made to compel to sell her car and scooter. The petitioner-husband is residing in House No.407, Sector-12, Panchkula, which is matrimonial home of the respondent-wife and is situated in the posh area of Panchkula. In view of the provisions under Section 19(f) of the Domestic Violence Act, the respondent-wife is entitled for the same level and status accommodation in the same locality or sector in which the petitioner-husband is residing. In posh locality i.e. Sector-12, Panchkula where the husband is residing, the usual rent is more than Rs.15,000/- per month excluding the electricity and water charges. Moreover, the petitioner-husband is a Government employee and is working as Lab Technician in the Health Department's Food and Drug Lab, Kharar and is getting monthly salary as Rs.41,407/- per month as per the pay-slip Ex.P2.

I have heard learned counsel for the parties.

The matter was referred to the Mediation and Conciliation Centre of this Court to explore the possibility of some amicable settlement, but to no avail. However, on 04.02.2019, this Court interacted with the parties, who were present in person and found that there is some possibility of settlement between the parties. Respondent-wife Jyoti Chhabra had stated that she has got a private House No.803 in Sector 11, Panchkula on rent and she would welcome the petitioner-husband to stay with her in that house. Accordingly, the petitioner-husband was directed to stay with the respondent-wife.

There are allegations and counter-allegations by the parties and this Court after interacting the parties has found that initially, the respondent-wife was staying in the same house in which her mother was staying, but thereafter, on 04.02.2019, the respondent-wife made a statement that she has got a private House No.803 in Sector 11, Panchkula, where the petitioner-husband stayed for about a week, but again there were allegations and counter-allegations by the parties as in the rented premises, stairs were painted with black colour. The respondent-wife has alleged that it is the petitioner-husband, who has painted it in black colour, whereas the husband has made counter-allegations. But noticing the fact that the wife is now staying in a house at Sector 11, Panchkula and this fact has not been disputed by the petitioner-husband as he has already stayed in that house for a week or so, it is well established that the wife is staying in a rented house in Sector 11, Panchkula. At the same time, it cannot be presumed that the rent in the said locality is less than Rs.15,000/- per month. Therefore, considering the limited

controversy involved in the present petitions, this Court finds that the impugned order dated 08.08.2017 passed by learned Additional Sessions Judge, Panchkula is liable to be set aside, whereby wife was awarded Rs.10,000/- per month as rent while modifying the judgment of learned Magistrate dated 23.12.2016.

Accordingly, the criminal revision petition filed by the petitioner-husband i.e. ***CRR No.3791 of 2017*** titled as ***Ajay Chhabra Versus Dr. Jyoti Chhabra*** is dismissed, whereas the criminal revision petition filed by the respondent-wife i.e. ***CRR No.4008 of 2017*** titled as ***Jyoti Chhabra Versus Ajay Chhabra*** is allowed. The order dated 08.08.2017 passed by learned Additional Sessions Judge, Panchkula is set aside, whereas the order dated 23.12.2016 passed by learned Judicial Magistrate 1st Class, Panchkula, whereby the petitioner-husband was directed to pay a sum of Rs.15,000/- per month to the respondent-wife for providing separate accommodation on submission of rent note by the respondent-wife, is affirmed.

Learned counsel for the respondent-wife has apprehended that the petitioner-husband may not pay the rent amount as directed by learned Magistrate, but as the respondent-husband, who is present in Court, undertakes to pay the rent amount regularly, this Court finds that apprehension shown by wife, at this stage, is totally misconceived. However, it is made clear that in case the petitioner-husband fails to make payment of Rs.15,000/- per month towards the rent amount so assessed by learned Magistrate, the respondent-wife shall be at liberty to move an appropriate

application before learned Magistrate to get the suitable direction including attachment of the salary account of the petitioner-husband.

Photocopy of this order be placed on the file of other connected case.

February 25, 2019
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No