

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1030 of 2019

- Smt. Bharti Madnani, W/o - Manoj Madnani, Aged About 52 Years, R/o- M.D. -04, House No. 41, Phase-4 (Ground Floor), Kabir Nagar, District Raipur, Chhattisgarh.

---- Applicant

Versus

- Smt. Gyani Devi, W/o - Late Nandlal Baleja, Aged About 72 Years, R/o- M.D. -04, House No. 41, Phase-4 (Ground Floor), Kabir Nagar, District- Raipur, Chhattisgarh.

---- Respondent

For Applicants	:	Mr. K.K. Dewangan, Advocate.
For Respondent	:	Ms. Mamta Mishra, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

11/02/2020

Heard.

1. The petition has been brought challenging the legality, propriety and correctness of the order dated 22.7.2019 passed by the learned First Additional Sessions Judge, Raipur, dismissing the appeal filed under Section 29 of the Protection of Women from Domestic Violence Act, 2005 (for short 'the Act, 2005').
2. It is submitted that the respondent has filed application under Section 12 of the Act, 2005 before the Court of Judicial Magistrate First Class, Raipur submitting that the application is not maintainable for the reason that she is not covered under the definition in Section 2(q) of the Act, 2005, according to which, the 'respondent' means any adult

male person who is, or has been, in a domestic relationship with the aggrieved person. Admittedly, the applicant and the respondent are daughter & mother in relation and there is no such relation through marriage thus there is no domestic relationship between them as defined under the Act, 2005. It was also submitted that the applicant herself is dependent on her daughter, therefore, her application is not maintainable in any respect. The learned JMFC has dismissed the application against which an appeal was presented before the appellate Court, which has also been dismissed in an arbitrary and erroneous manner without appreciating the law in this respect. Hence, it is prayed that this revision be allowed and relief, as claimed, be granted.

3. Learned counsel for the respondent opposes the petition and submissions made in this respect. It is submitted that in the matter of Hiral P. Harsora and others v. Kusum Narottamdas and others, reported in (2016) 10 SCC 165 it was held that meaning of 'respondent' has been interpreted including a female also, and there is no such requirement that the respondent in every case should be a person in relationship through marriage. Therefore, the objection has rightly been dismissed by the trial Court which does not call for any interference in exercise of revisional jurisdiction.
4. I have heard both the parties and perused the documents on record.
5. It is not disputed that applicant is the daughter of the respondent. The "domestic relationship" has been defined in Section 2(f) of the Act, 2005, which says that 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. This definition is very wide scope and it includes every relationship between two persons. The consanguinity relationship has also been recognized which includes relation of mother and daughter also.
6. Section 2(q) of the Act, 2005 defines that "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. This definition has been dealt with in the judgment of Hiral P. Harsora

(supra) by the Supreme Court in detail. It has been held that the “domestic relationship” as defined under Section 2(f) is very wide scope. Definition of “respondent” given in Section 2(q) is very much restricted, whereas definition of “shared household” given in Section 2 (s) of the Act, 2005 includes a ‘female coparcener’ of a joint family also as a respondent. It has further been observed that this is one glaring anomaly present in the Act. Further, it has been observed that the definition of “domestic violence” provided under Section 3 of the Act, 2005 is gender neutral in nature, therefore, on this basis it has been held that any person aggrieved shall have entitlement to file application under the Act, 2005 against her female relatives also.

7. Another ground raised in the argument needs examination which is a clear proviso of Section 2(q) of Act, 2005.
8. On perusal of proviso to Section 2 (a) of the Act, 2005, it is found that this proviso is not restrictive, rather it is a proviso which enables an aggrieved person to file application also against such person with whom she has lived in a relationship, which is not a valid marriage which can be considered as a relationship in the nature of a marriage i.e. live-in relationship. Hence, this ground raised is without any substance.
9. After considering on the submissions made by the learned counsel for both sides, I am of this view that this petition is without any substance. No error can be found in the orders passed by the Courts below. Therefore, the petition is dismissed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha