

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

CRM-M-969-2020
Decided on : 13.01.2020

Girdhar Gopal Sharma & ors.

..... Petitioners

Versus

Deepika Sharma

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. H.S.Thiara, Advocate
for the petitioners.

Manjari Nehru Kaul, J.

Instant petition has been filed under Section 482 Cr.PC for setting aside the order dated 23.02.2018 (Annexure P-4) passed by Sub Divisional Judicial Magistrate, Phagwara, District Kapurthala and order dated 19.11.2019 (Annexure P-5) passed by the Addl. Sessions Judge, Kapurthala vide which petitioners were directed to provide accommodation in the house situated at Mohalla Padya, Mehli Gate, Phagwara to the respondent.

Few facts necessary for adjudication of the instant petition as pleaded in the petition filed under Section 12 of the Protection of Women from Domestic Violence Act by the respondent before the learned Court below may be noticed.

Marriage of the respondent was solemnized with Gaurav Sharma (deceased son of petitioners No.1 and 2 and brother of petitioner No.3) on 18.11.2012 as per Hindu rites and ceremonies. The marriage

between the respondent and deceased Gaurav Sharma was an inter caste marriage and against the wishes of the family of Gaurav Sharma. The husband of the respondent was serving in the office of Farad Centre at Tehsil Complex, Phagwara besides being a business partner in “Khush Enterprises” with petitioner No.3 i.e. his brother. After the marriage, respondent along with her husband resided in the house of the latter's grandfather at Mohalla Padya, Mehli Gate, Phagwara till 18.01.2014. Despite the family of deceased Gaurav Sharma opposing their marriage initially, they continued to be on visiting terms with each other inasmuch as they would attend family functions and other social functions organised by the family of Gaurav Sharma. Unfortunately, the husband of the respondent fell seriously ill on 20.12.2013 and as a result, she along with her critically ill husband, who had slipped into a coma, shifted to House No.104, New Model town, Phagwara i.e. the house of her-in-laws. The respondent along with her husband resided there till his death on 18.01.2014. Since the respondent was pregnant at the time of her husband's death, her mother took her to her house at Goraya for her delivery on 28.02.2014. After 1¼ months of the delivery of the child, the respondent along with her new born son was brought to House No.104, New Model town, Phagwara by the petitioners. On her return, the respondent was asked to sign on blank papers which she did in good faith. The behaviour of the petitioners towards the respondent allegedly was not very cordial and they started to mentally harass and torture the respondent. Finally, the respondent was turned out from the matrimonial house on 27.04.2014 but not before being threatened with dire consequences. It was pleaded that ever since then the respondent along

with her minor child had been residing in her parental home. Since the respondent had no source of livelihood to maintain herself and her child, she was facing acute financial hardship as the petitioners were not providing her any financial assistance for herself as well as for her son's maintenance.

Per contra, the petitioners herein in their written statement filed before the Court below, refuted and denied the averments and allegations of the respondent-wife. They submitted that the respondent had in fact never ever resided with them in their house during the lifetime as well as after the death of their son Gaurav Sharma.

Trial court as well as the Appellate Court after appraising the evidence and other material on record allowed the petition filed by the respondent by directing the petitioners to provide her accommodation in the house situated at Mohalla Padya, Mehli Gate, Phagwara within one month and further restrained the petitioners from entering in the said house.

I have heard learned counsel for the petitioners and also gone through the impugned orders passed by the Courts below.

In my considered opinion, the unrebutted evidence in the form of photographs Ex.AW-1/1 to Ex.AW-1/15, which were placed on record by the respondent, clearly indicates and establishes that before the unfortunate death of Gaurav Sharma, the parties were indeed on visiting terms with each other and would celebrate family functions and other social functions together. So much so, the respondent along with her deceased husband even during the lifetime of the respondent's grandparents-in-law had been residing in the said house situated at Mohalla Padya, Mehli Gate, Phagwara, which was a shared house of her husband along with the petitioners as well

as his grandparents. Just because the respondent resided temporarily in her parental home after the death of her husband and till the birth of her child, would not disentitle her to reside in the said house. The respondent and her son cannot be compelled/forced to reside with her parents. The respondent being a widow can definitely enforce her claim to the residence where she along with her husband resided before his death. The widowed daughter-in-law does not have any means to look-after herself and her child. Hence, the petitioners, who are none other than the parents-in-law and brother-in-law of the widowed daughter-in-law cannot escape from their moral and legal duty to let her and her child reside in the said house in question.

In view of the above, no ground for interference in the impugned orders passed by the courts below is made out. Accordingly, the present petition stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

13.01.2020
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No