

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRM-M No.16389 of 2016 (O&M)
Date of Decision.24.01.2020

Hazura Singh and others

...Petitioners

Vs

Jaspreet Kaur and others

...Respondents

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Aalok Jagga, Advocate
for the petitioners.

None for the respondents.

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JAISHREE THAKUR J.

1. This is a petition that has been filed under Section 482 Cr.P.C. seeking to challenge the complaint No.2350 of 2015 dated 15/16.04.2015 (Annexure P-1) filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005 as well as the summoning order dated 16.04.2015 (Annexure P-2).

2. In brief, the facts are that a marriage between respondent No.1 and Charanjit Rai, who is reflected as proforma respondent in the present proceedings, was solemnized on 22.11.2004 according to Sikh rites and ceremonies at Ludhiana and out of the wedlock, two children were born, namely Meharpreet Kaur and Sidakveer Singh, on 26.12.2005 and 28.11.2013 respectively. In the complaint, it was alleged that parents of the complainant, respondent No.1 had spent a huge amount on the marriage as per the demands made, but her in-laws i.e. petitioners herein were not satisfied with the dowry given and she was ill-treated by them. As the matter was not settled, complaint came to be filed under the Protection of Women from Domestic Violence Act, 2005, which detailed the harassment meted out to her. Aggrieved against the

summoning order, petitioners namely Hazura Singh, father-in-law, Parminder Kaur, mother-in-law and Devinder Singh, brother-in-law have preferred the instant quashing petition on the ground that allegations as set out in the complaint are patently false and not sustainable.

3. Mr Aalok Jagga ,learned counsel appearing on behalf of the petitioners herein argues that petitioner No.2, Parminder Kaur is suffering from a chronic disease of Lymphocytic Leukemia i.e. blood cancer since the year 2012 and is suffering from rheumatic heart disease and therefore, is not in a position to either mentally or physically torture respondent No.1. It is submitted that the complainant was residing happily with her husband in a different locality i.e. they were residing at House No.15, Guru Teg Bahadur Nagar, Roopnagar and thereafter at House No.136, Lakhwindra Enclave, Near Green Palace, Roopnagar and therefore, were not joint in residence. It is further argued that respondent No.1 had initially filed a complaint under Section 125 Cr.P.C before the Court of Judicial Magistrate, Roopnagar and has also filed a petition under Section 13 of the Hindu Marriage Act seeking a decree of divorce, however, the same was withdrawn by her and she had also sworn in an affidavit dated 22.11.2011 stating that all allegations levelled by her against her husband and his family members in the petitions filed under Section 13 of the Hindu Marriage Act and under Section 125 Cr.P.C were false and baseless.

4. Learned counsel further argues that reading of the said complaint would reflect that all incidents complained of were prior to 2011 and there was nothing in the petition against the petitioners regarding any incident from the year 2011 to 2015. It is argued that the complaint filed by respondent No.1 is nothing but an abuse of the process of law and therefore, prays for quashing

of the same.

5. Notice of motion was issued on 12.05.2016 and appearance was caused by respondent No.1 as far as back 07.04.2017 for herself and her two minor children and she sought time to engage a counsel. On the next date of hearing, no appearance was put in either by the respondent No.1 or any counsel on her behalf. The matter was posted on several dates thereafter, however, there is no representation on behalf of the respondents as on date. Since the matter is pending in this Court since the year 2016, this matter is being taken up for hearing sans the reply filed or any representation on behalf of the respondents, while reiterating that respondents stood duly served.

6. Counsel appearing for the petitioners lays great emphasis on the fact that allegations as set out in the complaint are primarily against husband of the complainant i.e. Charanjit Rai, while further laying stress on the fact that she had filed petitions under Section 125 Cr.P.C seeking maintenance and under Section 13 of the Hindu Marriage Act for divorce, however, she had herself withdrawn the same by furnishing an affidavit in the Court. He also draws attention of this Court to Annexure P-17, which is a petition filed by Jaspreet Kaur under Sections 6, 7, 12 and 25 of Hindu Guardianship and Wards Act, 1890 seeking legal custody of the minor child namely Prince. This petition was contested wherein a categorical plea had been set up by Charanjit Rai that both the minor children born out of the wedlock were already in the custody of the complainant and no child of name Prince born from his loins with respondent No.1-complainant. Evidence was led in these proceedings and ultimately the petition seeking custody of the minor child was dismissed.

7. Since the petition has not been contested, allegations as set out in the present petition for quashing have remained unchallenged . From the

pleadings and record, it can be perused that the petitioners herein, who are in-laws of respondent No.1, are not joint in residence, while further taking into account that respondent No.1 had herself sworn in an affidavit as far back as in 2011 that no ill-treatment had been meted out to her by her husband or his family members in the divorce proceedings as well in the application filed under Section 125 Cr.P.C. A reading of the complaint does not show that any incident amounting to domestic abuse as defined under the DV Act is set out against the petitioners herein after the year 2011 till such time as the petition was filed in the year 2015, which becomes a substantial ground for this Court to interfere. The complainant has also not been able to establish that there was a '*shared household*' with the petitioners as the husband of the complainant-respondent was in a Government job and residing separately from the petitioners, which fact has not been controverted. The respondent has not been able to establish a "domestic relationship" as defined under Section 2(f) of the DV Act of 2005 to be able to sustain a complaint against the petitioner.

8. Consequently, the instant petition is allowed and the complaint No.2350 of 2015 dated 15/16.04.2015 (Annexure P-1) filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005 as well as the summoning order dated 16.04.2015 (Annexure P-2) are quashed qua petitioners.

(JAISHREE THAKUR)
JUDGE

January 24, 2020
Pankaj*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No