

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

**CRM-M No.29008 of 2014
Date of Decision.17.01.2020**

Alok ...Petitioner

Vs

Sunita ...Respondent

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Sanjeev Kr. Aaryan, Advocate
for the petitioner.

Mr. Vinod S. Bhardwaj, Advocate
for the respondent.

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JAISHREE THAKUR J. (ORAL)

1. The petitioner herein seeks quashing of the complaint bearing No.87-II dated 11.12.2012 under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (in short DV Act) pending in the Court of JMIC, Hisar as well as the summoning order dated 19.05.2014.

2. In brief, the facts are that a marriage was solemnized between the petitioner and the respondent-Sunita, however, an application under Section 12 of the DV Act was filed on 11.12.2012 against Net Ram Kaswa and Nirmala Devi wife of Net Ram Kaswa under Sections 12, 19, 20 and 22 of the DV Act. In the said application, it was alleged that respondent herein had solemnized marriage with the petitioner herein on 18.05.2008 at Sangharia according to Hindu rites and ceremonies but no child was born out of the wedlock. At the time of marriage, family of the respondent had spent a huge amount of ₹15 lakhs but her husband and his family members were not satisfied with the same and started committing domestic violence upon her by demanding a lavish car. In para 4 of the complaint, it had

specifically been averred that the whereabouts of the respondent's husband namely Alok were not known for the last more than two years and as such, he was not arrayed as one of the respondents in the application, which had been filed only against the in-laws. During the course of proceedings pending before the JMIC, an application dated 14.05.2014 was preferred by her seeking to implead Alok son of Net Ram Kaswa as a party since his whereabouts were known.

3. The application was contested, which resulted in the impugned order being passed. The JMIC allowed the said application and summoned the petitioner herein to appear before the Court by an order dated 19.05.2014, which is under challenge.

4. Learned counsel appearing on behalf of the petitioner would submit that in fact the harassment was meted out to him and his family members at the hands of the respondent-wife, which would be evident from the fact that he had left the matrimonial home and had separated since 14.08.2008. It is only when he came to know that a complaint had been filed under the DV Act against his parents, he came back, while further arguing that on account of harassment meted out from the respondent, a false complaint had also been filed with the police vide Diary No.13 at Police Station, Civil Lines, Hisar. It is argued that the complaint is not maintainable, as the allegations as set out in the same are false, while also arguing that the complaint is barred by limitation. He relies upon judgment rendered by Hon'ble Supreme Court in **Inderjit Singh Grewal Vs. State of Punjab and another 2011 (12) SCC 588** and a Coordinate Bench of this Court in **Om Parkash Syngal and others Vs. Shimla Garg 2016(3) RCR**

(Civil) 225 to submit that a complaint has to be filed within a period of one year from the date of cause of action.

5. Per contra, learned counsel appearing on behalf of the respondent would submit that the petitioner herein has been rightly summoned to face the proceedings as initiated under the DV Act, while further submitting that both the parents had been summoned on an earlier occasion. It is submitted that against the summoning order, they had filed an appeal, which also stood dismissed. It is argued that the plea of limitation set up by the respondent is not sustainable, in view of judgment rendered by this Court in Vikas and others Vs. Smt. Usha Rani and others in Crl. Revision No.3084 of 2016 decided on 17.04.2018.

6. I have heard learned counsel for the parties and with their assistance have gone through the pleadings and the case laws as cited. The factum of marriage between the parties is not in dispute, which is stated to have taken place on 18.05.2008. As per the averments made by the respondent herself in para 4 of the petition, the petitioner had left the matrimonial home two years prior and his whereabouts were not known. Counsel for the petitioner herein also relies upon Section 28 of the DV Act to contend that the complaint ought to have been filed within a period of one year from the date of occurrence of cause of action. However, this Court is not inclined to agree with the argument as raised by him. This Court in judgment rendered in Vikas and others Vs. Smt. Usha Rani and others (supra) has dealt with judgment rendered in Inderjit Singh Grewal (supra) and has distinguished the same by taking into consideration the judgments rendered in Jeet Singh and others Vs. State of U.P. and others

(1993) 1 SCC 325 and Krishna Bhattacharjee Vs. Sarathi Choudhary and another 2016 (2) SCC 705 wherein a question of limitation had arisen before the Hon'ble Supreme Court, as the wife was seeking return of *Istridhan* and applying the principle as set up in the said judgment, this Court came to conclusion that there was no limitation prescribed to institute a claim seeking relief under Section 12 to 22 of the DV Act. The relevant portion of the same is reproduced as under:-

“15. As already stated, this Court has to answer the question, whether the complaint is barred by limitation based upon the provisions of the Domestic Violence Act and the law, as cited. Section 28 of the Domestic Violence Act mandates all proceedings under Sections 12, 18, 19, 20, 21, 22, and offences under Section 31 shall be governed by the Code of Criminal Procedure. Whereas Section 31 provides for penalty of breach of protection order against the ‘respondent’ and Rule 15 of the Rules Of 2006 provides for procedure under Section 31 of the Domestic Violence Act.

16. An aggrieved person is permitted to present an application to the Magistrate seeking one or more reliefs under this Act and the Magistrate shall take into consideration any domestic incident report received by him from the Protection Officer also. Section 12 of the Domestic Violence Act is enabling provision to file an application, whereas Sections 18 to 22 of the Domestic Violence Act provide for rights of the aggrieved person to seek different reliefs like protection, residence, monetary relief, custody of minor and compensation. No limitation has been prescribed for seeking any such relief. Penal provisions under Section 31 of the Domestic Violence Act would get attracted on a breach of a protection order . It is only in a situation when there is a breach of any protection order on an application under

Section 12 or on any of the reliefs under Sections 18 to 22 of the Domestic Violence Act, then and then only, an application under Section 31 of the Domestic Violence Act is to be filed within one year from the date of such breach and not thereafter. Therefore, the court is of the opinion that there is no limitation prescribed to institute a claim seeking relief under Sections 17 to 22 of the Domestic Violence Act.

7. In view of the facts and circumstances as enumerated above, I do not find any merit in the instant petition, as the law regarding limitation has already been settled by this Court. Consequently, the petition stands dismissed. Parties to appear before the trial Court on 17.02.2020.

(JAISHREE THAKUR)
JUDGE

January 17, 2020
Pankaj*

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