

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRR-3521-2018 (O&M)  
Date of Decision: 04.02.2020

Narinder Bhutani

.....Petitioner

Versus

Anjali Bhutani

.....Respondent

**CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present: Mr. Munish Kumar Garg, Advocate, and  
Mr. Ashish Pundir, Advocate, for the petitioner.

**Harnaresh Singh Gill, J.**

Challenge in the present petition is to the order dated 24.03.2017 passed by the learned Chief Judicial Magistrate, Karnal, vide which an application under Section 340 Cr.P.C. filed by petitioner was dismissed and the order dated 9.5.2018 passed by the learned Additional Sessions Judge, Karnal, whereby appeal against the said order, was also dismissed.

It is the case of the petitioner that the respondent-wife filed a petition on 31.05.2013 under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short 'the D.V. Act') and impleaded her husband (the petitioner herein) and relatives of the petitioner, namely, Neeru Pahwa, Gulshan Pahwa, Lata Malhotra, Gopal Malhotra, Rajesh Kumar Bhutani and Sarika Bhutani. It is further the case of the petitioner that the said persons had been intentionally impleaded by the respondent-wife and after misleading and giving false

submissions to the Court, notices had been got issued to the said persons to harass them. It was thus, averred that it was an act of malicious prosecution causing an immense mental, physical and monetary injury to them.

The learned trial Court, while taking into consideration the averments made in the application under Section 340 Cr.P.C. and after hearing the petitioner (applicant therein) in person, dismissed the same on the ground that merely because other relations of the petitioner-husband were arrayed as a party in the petition under Section 12 of the D.V. Act, it does not attract any offence as referred to in Clause (b) of sub-section (1) of Section 195 Cr.P.C.

The Appellate Court, while deciding the appeal challenging the order dated 24.03.2017 and 12.07.2017 (vide order dated 12.07.2017, the trial Court held that it has no power to review the order dated 24.03.2017) held that the respondent-wife had not made any false declaration or false statement on oath before the Court. It was further found that the petition under Section 12 of the D.V. Act was still pending and no findings were recorded by the Courts that the evidence led by the respondent-wife was found to be false.

I have heard learned counsel for the petitioner and gone through the case file with his able assistance.

Respondent-Anjali Bhutani contended in her petition under Section 12 of the D.V. Act that she had never resided in the joint family with her in-laws. She did not suffer any false statement on oath before the Court.

Learned counsel for the petitioner has drawn the attention of this Court to the affidavit of Anjali Bhutani (Annexure R.5) to show that a false declaration has been made by her.

However, I do find any merit in the said argument. Mere leveling allegations against husband and his relatives cannot be an expedient cause to proceed with the application under Section 340 Cr.P.C., especially when the respondent has never claimed that other family members of her husband (petitioner) had ever resided with her.

Though the petition filed by the respondent-wife under D.V. Act was dismissed on 25.04.2017, yet the Appellate Court vide order dated 17.11.2018 allowed the appeal filed by her, whereas the cross-appeal filed by the petitioner was dismissed.

The judgment referred to by the learned counsel for the petitioner in Manmohan Attavar vs Neelam Manmohan Attavar, 2017(3) RCR (Criminal) 686 is with regard to the claim of the wife to live in a house which she had never shared with her husband. Another case law referred to by the learned counsel for the petitioner is Sham Lal Garg Vs. Shimla Garg, 2016(3) RCR (Civil) 225, wherein it was held that the proceedings under the D.V. Act, being civil in nature, cannot be quashed under Section 482 Cr.P.C. Both these judgments are of no help to the petitioner.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

CRM-37732-2018 has been filed seeking condonation of 70 days' delay in filing the present petition. No ground for condoning such delay is made out, especially when the petition has been filed through legal aid counsel. As the main petition stands dismissed, the present application seeking condonation of delay also stands dismissed.

**(HARNARESH SINGH GILL)**  
**JUDGE**

04.02.2020  
ds

Whether Speaking/ Reasoned:  
Whether Reportable:

Yes/ No  
Yes/ No