

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

115

CRM-M-4161-2021 (O&M)

Date of decision:29.01.2021

Santosh Mittal

... Petitioner

Vs.

Sonia Singla and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Sunil Polist, Advocate for the petitioner.

SUVIR SEHGAL J. (ORAL)

The Court has been convened through video conferencing due to Covid-19 pandemic.

Through the instant petition filed under Section 482 of Code of Criminal Procedure, 1973, the petitioner seeks quashing of complaint bearing No. COMA/45/2020 dated 17.08.2020 titled as ***Sonia Singla and another Versus Pankaj Mittal and another***, Annexure P-1, filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short “the Act”) which is pending before JMIC, Derabassi, District Mohali.

Counsel for the petitioner has argued that the petitioner, who is the mother-in-law of the complainant-respondent No.1, is not residing with the complainant, therefore, the complaint under the provisions of the Act is not maintainable against her.

The argument raised by the counsel deserves to be noticed and rejected. A perusal of paras 7 to 9 of the impugned complaint-Annexure P-1

shows that after her marriage, the complainant started residing at the native place of her in-laws at Kurukshetra and the petitioner started harassing her for not bringing adequate dowry. It has been alleged that on the very first day after marriage, the petitioner taunted her for bringing five sarees less in dowry. The taunts became a daily affair. Still further, it has been alleged that the complainant was forced to travel from Kurukshetra to her workplace at Government High School, Sector 24, Chandigarh and later to Panchkula, where she was transferred. It has been further pleaded that the complainant and the petitioner stayed together at Kurukshetra and then at Gurgaon during her first and second pregnancy, when she was maltreated, harassed, forced to do household chores and given insufficient diet by the petitioner despite her being pregnant. The complainant was compelled to give her salary to the petitioner. From the complaint, it is clear that the complainant and the petitioner have been residing together at different places.

The expressions “aggrieved person”, “domestic relationship” and “shared household” has been defined in Section 2 of the Act as under:

“a) “aggrieved person” means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;

b) to e) xxx xxx xxx

f) “domestic relationship” means a 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”

g) to q) xxx xxx xxx

s) “shared household” means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondents is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household;”

An examination of the provisions makes its clear that domestic relationship arises in respect of an aggrieved person, if the aggrieved person has lived with the respondent in a shared household. The living together can be either at the time of the filing of the petition or at any time in the past, when an act of domestic violence is alleged to have been committed. Therefore, none of the definitions contemplate that on the date of filing of application for the reliefs under the Act, the parties should be actually residing or living together. The words “live or have at any point of time lived together” necessarily cover even the past co-habitation or living together in the past. Otherwise, these words would not have appeared in the

definition. Giving any other interpretation would be making these words nugatory. So till the time the marital tie subsists and the party, at any point of time, has lived together, the application or proceedings under the Act can survive and are very much maintainable so as to grant the necessary relief.

When examined in this background, it is apparent that the petitioner and the complainant were residing together when the incidents of economic, verbal and emotional abuse have been alleged to have been committed by the petitioner. The complaint, Annexure P-1 against the petitioner is, therefore, held to be maintainable.

The judgment of the Hon'ble Supreme Court in ***Kamlesh Devi Vs. Jaipal*** 2019(4) Cri.CC 544, relied upon by the counsel for the petitioner is not applicable to the facts of the present case. The Apex Court found that the petitioner and the respondents, were not living together, rather they appeared to be neighbours and the allegations regarding their being family members, were vague. In the present case, the petitioner is the mother-in-law of the complainant, allegations against her are very specific and they were living in a shared household immediately after the marriage of the petitioner and at different points of time thereafter.

Finding no merits in the petition, same is dismissed.

29.01.2021

pooja saini

(SUVIR SEHGAL)

JUDGE

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No