

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

(123)

CRM-M-8942-2016

Date of pronouncement:- 09.05.2022

Pawittar Jit Singh Rattan and another**...Petitioners****Versus****Dr. Preeti Singh****...Respondent****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present: Mr. A.S.Walia, Advocate for the petitioners.

Mr. Manish Joshi, Advocate for the respondent.

...

SUVIR SEHGAL, J.

Instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for short “the Code”) seeking quashing of Complaint bearing Registration No.60/2015 dated 16.04.2015, Annexure P-1, pending before Ld. JMIC, Mohali, qua the petitioners, under Section 12 of Protection of Women from Domestic Violence Act, 2005 (for brevity hereinafter referred to as “the DV Act”) and all consequential proceedings arising therefrom.

Facts, in brief, leading to the filing of the present petition are that the complainant (hereinafter referred to as “the respondent”) has filed complaint, Annexure P-1, wherein she has averred that she was married to Satinder Pal Singh, son of the petitioners, on 22.02.1998 at Sangrur and two children, namely, Armaan Singh and Muskaan Singh, were born out of the wedlock. The respondent is a Veterinary Doctor and her husband is working as Additional Superintending Engineer with Power Com and drawing a

salary of Rs.1 lakh approximately. At the time of marriage, the family of the respondent gave valuable gifts and expensive dowry items entailing an expenditure of more than Rs.20 lakh, but her husband and in-laws, present petitioners, were not satisfied and started harassing and humiliating her. When the respondent became pregnant, the petitioners started pressuring her to give her child to her brother-in-law, who was the childless, to which the respondent did not agree. The elder child, Armaan Singh, is a special child and she was diagnosed with congenital hypothyroid at the age of 3 months and the younger child, Muskaan Singh, was born in 2003. The petitioners and her husband were not happy with the birth of two female children. Satinder Pal Singh started residing in a separate room and barred the entry of the complainant to his room. He neither spent any money on the treatment or day to day expenses of his children or the respondent. A 400 square yards plot was purchased in Patiala in the joint names of respondent and her husband. As the relationship between the husband and wife deteriorated, the complainant went into a depression and was diagnosed with Bipolar Disorder. She underwent treatment for years together and remained on medical leave. The respondent was physically ill-treated by her husband and she has given various incidents in her complaint. In July 2011 when the mother of the respondent visited petitioner No.1 to sort out the differences, a demand of Rs.10 lakh was made. In June 2012, respondent was turned out from her matrimonial home and since then she has been residing with her widow mother and both her children.

Counsel for the petitioners contends that the petitioners, who are the in-laws of the respondent, never lived with the respondent and did not have any “domestic relationship”, with her. It is urged that they never resided in a “shared household” and the allegations of ill-treatment are false. By placing reliance upon the judgment of the Supreme Court in *Satish Chander Ahuja Versus Sneha Ahuja (2021) 1 SCC, 414*, counsel contends that in so far as the petitioners are concerned, the proceedings filed against them under the DV Act are nothing, but an abuse of the process of law and deserve to be set aside.

Opposing the petition, learned counsel appearing for the respondent argues that the respondent has been subjected to domestic violence, acts of harassment and has been tormented at the hands of the petitioners as well as that of their son and the proceedings against them under the DV Act are maintainable. He has submitted that the complainant is entitled to the protection and residence order as well as maintenance and compensation under the provisions of the DV Act from the petitioners as well as her husband, Satinder Pal Singh. It is his argument that the instant petition is not maintainable as the petitioners have failed to avail the alternative remedy available to them under Section 29 of the DV Act.

I have considered the arguments addressed by counsel for the parties and examined the documents placed by them on the record.

The first question that requires to be determined is as to whether the instant petition is maintainable and whether the remedy

under Section 29 of the DV Act would bar the invoking of the inherent power of this Court.

This question need not detain this Court. It is the settled position of law that power of the High Court under Section 482 of the Code is very wide and this Court in exercise of its inherent power can quash criminal proceedings not only where the allegations in the FIR/complaint do not disclose the commission of any offence nor make out a case against the accused, but also in case it comes to the conclusion that continuation of the criminal proceedings tantamounts to an abuse of the process. High Court of Karnataka in **Mareppa and others Versus Pusapanjali Law Finder Doc Id#1928308** has held that Section 29 of the DV Act does not take away the right of the petitioners seeking an order under Section 482 of the Code wherein the petitioners have attributed that the very initiation of the proceedings against them under the DV Act is an abuse of the process. This Court would, therefore, have the jurisdiction to entertain a petition under Section 482 of the Code and the statutory remedy of appeal under the DV Act would not be an embargo in exercise of such power.

Now, the second question that arises is as to whether the proceedings under the DV Act are maintainable against the petitioners, who are the in-laws of the respondent.

A perusal of the complaint filed by the respondent shows that allegations have been leveled against the petitioners as well as against Satinder Pal Singh of harassing and maltreating on account of insufficient dowry and also making of demands for more

dowry items. Specific instances of harassment and violence at the hands of Satinder Pal Singh have been narrated. The allegations leveled may attract the offences under the Indian Penal Code, but in order to invoke the jurisdiction under the DV Act, it is necessary that the parties should be in a “domestic relationship” as defined under Section 2 (f) of the DV Act. The tone and tenor of the complaint (Annexure P-1) shows that the primary allegation by the respondent is against her husband. There is no averment that the respondent ever lived together with the petitioners at any point of time. The petitioners have through-out lived separately from their son, who is a Government servant at their self-acquired house at Ludhiana with the elder son and daughter-in-law, who have now immigrated to Canada. Except for occasional visits to the house of the respondent during festive times, the petitioners were never in a domestic relationship with the respondent in the entire span of 17 years of her marriage. Even an occasional visit by the petitioners to the matrimonial house of the respondent would not bring it within the four corners of the definition of domestic relationship or shared household. In **Satish Chander Ahuja’s case (supra)**, Supreme Court has been held as under:-

“63. The words “lives or at any stage has lived in a domestic relationship” have to be given its normal and purposeful meaning. The living of woman in a household has to refer to a living which has some permanency. Mere fleeting or casual living at different places shall not make a shared household. The intention of the parties and the nature of living including the nature of household have to be looked into to find out as to whether the parties intended to treat the premises as shared household or not.”

In view of the clear enunciation of law by the Apex Court, this Court has no hesitation in coming to the conclusion that the petitioners, both of whom are more than 75 years of age, do not have any domestic relationship nor have they lived together in a share household with the respondent and the institution of the complaint (Annexure P-1) against them under the provisions of the DV Act is an abuse of the process of law and the same deserves to be set aside.

Accordingly, the petition is allowed. Complaint (Annexure P-1) filed against the petitioners under Section 12 of the DV Act as well as all proceedings arising there-from are quashed qua the petitioners.

Before parting, it is clarified that the aggrieved person would be entitled to continue the complaint and other case filed by her, in accordance with law, without being influenced with the observations, which have been made herein solely to decide the petition filed under Section 482 of the Code.

(SUVIR SEHGAL)
JUDGE

09.05.2022
Kamal

Whether speaking/ reasoned	Yes/ No
Whether Reportable	Yes/ No