

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

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**CRR-1132-2021
Decided on : 11.01.2022**

Ashok Kumar

... Petitioner(s)

Versus

Rekha Rani

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. J.P.S. Warring, Advocate
for the petitioner(s).

MANJARI NEHRU KAUL, J. (Oral)

By way of instant revision petition, the petitioner is impugning the order dated 19th July, 2021, vide which the learned Addl. Sessions Judge, Bathinda, dismissed his appeal, which was preferred against the order of the learned CJM, passed under Section 12 of the Prevention of Women from Domestic Violence Act, 2005 (in short 'DV Act').

Learned counsel for the petitioner vehemently contends that both the Courts below failed to appreciate and rather ignored the fact that the respondent had failed to prove her marriage with the petitioner and hence her complaint under Section 12 of the DV Act, was not maintainable. He further contends that since there was no material on record *qua* the domestic relationship between the parties, the petitioner was, therefore, not liable to maintain the respondent. Moreover, the respondent had failed to bring on record any proof by way of any material evidence that she had ever lived with the petitioner.

I have heard learned counsel for the petitioner and perused the material on record.

Before proceeding further, it would be apposite to reproduce Section 2(f) of the DV Act, which is as under:-

“2(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;”

A bare reading of the provisions of Section 2(f) of the DV Act, leaves no manner of doubt that any relationship in the nature of marriage between two persons, coupled with the fact that if such persons have lived together in a 'shared household' as defined in Section 2(s) of DV Act, would fall within the ambit of 'domestic relationship'.

The Hon'ble Supreme Court in **Rajnish Vs. Neha, 2021(2) SCC 324**, reiterated its observations made in **D. Velusamy Vs. D. Patchaiammal, 2010(4) RCR(Cr.) 746**, *qua* the expression “relationship in the nature of marriage” as appearing in Section 2(f) of the DV Act, which is extracted as under:-

*“48. The expression "relationship in the nature of marriage" as being akin to a common law or a de facto marriage, came up for consideration in **D. Velusamy v. D. Patchaiammal (2010) 10 SCC 469**. It was opined that a common law marriage is one which requires that although a couple may not be formally married : (a) the couple hold themselves out to society as being akin to spouses; (b) the parties must be of legal age to marry; (c) the parties must be otherwise qualified to enter into a legal marriage, including being unmarried; and (d) the parties must have voluntarily cohabited, and held themselves out to the world as being akin to spouses for a significant period of time. However, not all*

live-in relationships would amount to a relationship in the nature of marriage to avail the benefit of D.V. Act. Merely spending week-ends together, or a one-night stand, would not make it a "domestic relationship".”

Still further, the Hon'ble Supreme Court in **Indra Sarma Vs. V.K.V. Sarma, (2013) 15 SCC 755**, went on to hold that even a live-in relationship between two persons would fall within the expression of “relationship” in the nature of marriage.

Coming to the case in hand, the respondent while stepping into the witness-box as CW-1 led her evidence by way of an affidavit. She was thoroughly examined and proved on record her pictures with the petitioner. Still further, the birth certificate of her daughter was proved by the respondent, wherein, the name of the petitioner stood recorded as the father of the child. A perusal of the impugned order further reveals that even in the records of the Civil Hospital, wherein, the respondent was admitted for undergoing an abortion on 15th December, 2010, the name of the petitioner had been recorded as her husband.

No doubt, the learned counsel for the petitioner submitted to the effect that in the hospital records, the name of the respondent was not forthcoming and it was in fact, one Vanshika whose admission in the hospital had been shown, however, a perusal of Para No.13(1) of the order of the learned Sessions Judge, reveals that the respondent had categorically stated in her application that since the parents of the petitioners were opposed to her marriage with the petitioner, she had been admitted in the hospital in a different name by the petitioner himself. However, it was a matter of record that while signing the admission form, she had signed as

Rekha Rani, whereas, the petitioner had signed the consent form as Ashok Kumar. A perusal of the impugned order further reveals that the other witnesses, who stepped into the witness-box corroborated the case of the complainant i.e. respondent herein, in its entirety. Still further, in the complaints made to the police by the respondent against the petitioner and other family members, the petitioner and his family members had not denied their relationship with the respondent, rather, it was merely stated by the family members of the petitioner that he had been disowned by them. It is, thus, very evident that the petitioner for reasons but obvious i.e. to shirk his responsibility towards the petitioner and his daughter is now not only disputing his marriage but also the parentage of his child.

Even if the marriage of the parties does not stand proved, however, in the facts and circumstances, the material which was placed on record before the Courts below and in the light of the settled law, there cannot be any doubt that the parties were living together in a relationship, which was in the nature of marriage. Hence, the 'domestic relationship' between them did exist and the respondent being an aggrieved person was fully competent to file a complaint under Section 12 of the DV Act.

Petition stands dismissed accordingly.

(MANJARI NEHRU KAUL)
JUDGE

January 11, 2022

J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*