

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.127

Case No. : CR-4976-2023(O&M)

Date of Decision : August 29, 2023

Ravinder and others Petitioners

vs.

Diksha Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. Abhimanyu Singh, Advocate
for the petitioners.

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GURBIR SINGH, J. :

1. Prayer in this Civil Revision petition filed under Article 227 of the Constitution of India is for quashing the complaint i.e. **Criminal Complaint No.08 dated 13.01.2021** (Annexure P-1) titled as **Diksha Vs. Ravinder and others**, filed by the respondent against the petitioners, under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as – the Act), as well as interim maintenance order dated 22.02.2022 (Annexure P-2), passed by Judicial Magistrate Ist Class, Bhiwani (for brevity – Trial Court), along with all subsequent proceedings arising therefrom.

2. The facts, as culled out from the paper book, are that the marriage of respondent was solemnized on 13.12.2018 with Hariom (since deceased) son of petitioners no.1 and 2 and brother of petitioner no.3. Out of this wedlock, a female child was born. The respondent used to cause

mental agony, physical torture and tension to the petitioners. On 22.03.2019, prior to the occasion of *Gangaur*, she took all gold and silver ornaments which were given to her by the petitioners in her marriage. Even a sum of Rs.3,00,000/- was paid by petitioner no.1 to his son Hariom, deceased husband of the respondent.

3. On 05.06.2019, the respondent called her brother to her house and went to her parental home along with her brother taking away her clothes etc. Thereafter, Hariom and all the petitioners went there to bring her back and various Panchayats were also convened but she refused to join the company of Hariom unless the land was transferred in her name. On 26.07.2020, Hariom met with an accident and succumbed to his injuries on 31.07.2020. Even then, the respondent did not come to see her husband. Since 05.06.2019, she has been residing at her parental home and there is no relation between the parties. Petitioners no.1 and 2 also disowned their son Hariom and the respondent as they got separated from the couple in the year 2019 and started living in a separate house.

4. In order to further harass the petitioners, respondent filed a petition under Section 125 Cr.P.C. (Annexure P-1), a Civil Suit for declaration and also lodged an FIR bearing No.257 dated 28.04.2021, under Sections 323, 498-A, 406, 506, 34 IPC, 1860, at Police Station Bhiwani Sadar, District Bhiwani. During investigation, petitioner no.3 was found innocent.

5. It has been further contended by learned counsel for the petitioners that vide order dated 22.02.2022 passed by the learned Trial Court, it has been directed that a sum of Rs.7,500/- per month be paid as

interim maintenance to the respondent, which is totally wrong and illegal as the act and conduct of respondent herself amounted to mental and physical cruelty to the petitioners. She used to live separately from the petitioners. False allegations have been levelled against the petitioners. Even no single instance of assault, maltreatment, stalking or any other crime has been alleged against the petitioners in the complaint. There are no specific allegations of harassment or cruelty. So, the complaint does not fall within the ambit of domestic violence. The respondent was not residing with the petitioners in a shared household. The residential house is exclusively owned by petitioners no.1 and 2 and respondent cannot be considered to be a member of the joint family. Petitioners no.1 and 2 are old-aged parents and petitioner no.3 is brother of her late husband. All of them have been falsely implicated with an oblique motive to wreak vengeance. The complaint in question is based on stale and bald allegations and it is a bundle of lies. So, no useful purpose would be served by keeping the proceedings pending. Reliance has been placed on a judgment in Anoop Singh and others vs. Vani Shree reported as 2015(2) RCR (Civil) 1035 and also on another judgment passed in Koli Babi Sarojni vs. Koli Jayalaxmi reported as 2015(1) RCR (Criminal) 662 (A.P.). In these circumstances, it has been prayed that the complaint filed by the respondent under Section 12 of the Act, be quashed.

6. I have heard learned counsel for the petitioners and perused the case file.

7. There is no dispute that the respondent/complainant was married to the son of petitioners no.1 and 2 and brother of petitioner no.3.

She has sought “Right to reside in a shared household” under Section 17 of the Act, “Protection orders” under Section 18 of the Act, “Residence orders” under Section 19 of the Act, “Monetary Reliefs” under Section 20 of the Act and “Compensation Orders” under Section 22 of the Act. The learned Trial Court has already passed the interim maintenance order, vide order dated 22.02.2022 (Annexure P-2). An appeal has also been filed against the said order by petitioner no.1. In a petition moved under Section 12 of the Act, it becomes duty of the Court to provide effective protection to the rights of a woman, who is a victim of violence of any kind occurring within the family. In the case in hand, the petitioners are family members of deceased husband of the respondent/complainant. Whether there is any act of violence or not, it is a question of evidence and the same can only be decided after leading evidence. The learned Trial Court passed the order of interim maintenance and the same is under challenge before the Appellate Court. Every woman has a right to file a complaint and a complaint can only be quashed if it amounts to an abuse of process of the Court. Learned counsel for the petitioners has failed to explain as to how filing of the instant complaint by the respondent is an abuse of process of the Court. The respondent/complainant has exercised her right to take recourse of law and there is nothing on the file at this stage, whereby the complainant can be non-suited.

8. Keeping in view the peculiar facts and circumstances of the case, I do not find any merit in this revision petition and the same is accordingly dismissed in limine. However, nothing stated herein above shall be considered as an expression of opinion on the merits of the case.

9. Pending applications, if any, shall stand disposed of along with this judgment.

August 29, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.