

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**119****CRM-M-51916-2023(O&M)****Date of decision: 12.10.2023****Nancy Wadhwa****...Petitioner(s)****Vs.****Gaurav Wadhwa & Others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present: - Mr. Veneet Thakur, Advocate
for the petitioner.

NIDHI GUPTA, J.

Prayer in the present petition under Section 482 Cr.P.C. is for issuance of directions to learned Judicial Magistrate, 1st Class, Hoshiarpur to decide complaint under Section 12 of Protection of Women from Domestic Violence Act, 2005 bearing COMA No.124-2020 titled as "Nancy Wadhwa Vs. Gaurav Wadhwa & Others" (Annexure P3) in time bound manner preferably within one month.

2. Learned counsel for the petitioner-wife inter alia submits that marriage of the petitioner was solemnized with respondent No.1 on 03.05.2017. No child was born out of their wedlock. The petitioner was turned out of the matrimonial home on 25.07.2019. On 02.09.2019, the petitioner submitted a complaint to the SSP Hoshiarpur against the respondents on the basis of which, FIR No.29 dated 12.02.2020 under Sections 498-A and 406 IPC was registered at Police Station Model Town, Hoshiarpur (Annexure P1). Thereafter, the petitioner filed an application under Section 125 Cr.P.C. (Annexure P2) wherein she prayed that

respondent No.1 be directed to pay maintenance of Rs.1 lakh per month to the petitioner as maintenance and Rs.50,000/- as litigation expenses. Thereafter, on 23.12.2020, the petitioner filed the present application under Section 12 of Protection of Women from Domestic Violence Act, 2005 read with Sections 18, 19, 20 and 22 against the respondents in the Court of learned Chief Judicial Magistrate, Hoshiarpur (Annexure P3).

3. Learned counsel further submits that despite the fact that the complaint was filed by the petitioner almost two-and-a-half years ago, however, till date, the same is still pending and no decision has been taken thereupon. It is further submitted that as per mandate of Section 12(5) of Domestic Violence Act, it is incumbent upon the Magistrate to endeavour to dispose of every application made under sub-section (1) within a period of 60 days from the date of its first hearing. It is prayed that accordingly, a direction be issued to the learned Judicial Magistrate, 1st Class, Hoshiarpur to decide the complaint (Annexure P3) filed by the petitioner in a time bound manner preferably within one month.

4. No other argument is made on behalf of the petitioner.

5. I have heard learned counsel for the petitioner.

6. Learned counsel for the petitioner has drawn attention of this Court to zimni orders from 17.3.2022 till date (Annexure P9 colly) to submit that matter had been adjourned several times on various pretexts and was not being decided by the learned Court below. However, perusal of Annexure P8 reveals that vide order dated 04.01.2022, the petitioner was granted interim maintenance of Rs.15,000/- per month from the date of

application and was also granted Rs.5,000/- as litigation expenses. Thereafter, matter was fixed for 17.03.2022. Order dated 17.03.2022 reads as follows:-

“Case was fixed for making payment, however complainant suffered suffered (sic) statement that she has no objection if the respondent deposit arrears of maintenance in her account before 10th of every month. In view of the statement suffered by complainant, respondent is directed to deposit the maintenance well before 10th of every month. Case is adjourned to 18.04.2022 for evidence of applicant and for production of document regarding payment received by the complainant”.

7. On 18.04.2022, no complainant witness was present; thereafter, on 10.06.2022, examination-in-chief of the petitioner was conducted and the matter was deferred for her cross-examination to 28.07.2022, on which date the petitioner was not examined as she was not feeling well; on the next date of hearing i.e. 29.08.2022, no complainant witness was present. On the next three dates being 29.09.2022, 17.11.2022 and 17.12.2022, cross-examination of the petitioner could not be conducted as she/no complainant witness was present.

8. From the above facts it is clear that the learned Court below is proceeding with the matter without delay; and in fact, it may not be wrong to state that it is the petitioner herself who has been recalcitrant in the pursuit of her complaint. In view of above undisputed facts, no

ground is made out for issuance of direction as prayed for. Present petition accordingly stands **dismissed**.

9. Pending application(s) if any also stand(s) disposed of.

12.10.2023
Sunena

(Nidhi Gupta)
Judge

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No