



**209-2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRR-671-2020 (O & M)
Date of decision: 08.11.2024**

AJAY JOHL

...PETITIONER

V/S

MIRA JOHL AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Akshay Jindal, Advocate and
Mr. Abhishek Shukla, Advocate
for the petitioner.

Ms. Mani Chander, Advocate for the respondent.
(through video conferencing)

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition has been preferred against impugned order dated 26.11.2019 passed by the learned Sessions Judge, Panchkula whereby the appeal filed by the petitioner against order dated 17.07.2018 passed by the learned Judicial Magistrate Ist Class, Panchkula in petition under Sections 12, 17, 18, 19, 20 and 22 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter 'DV Act'), was dismissed.

2. Briefly, the facts as alleged, are that the marriage between the petitioner and respondent No.1 was solemnized on 14.10.1984 and one daughter was born out of this wedlock on 22.10.1985. However, soon after the birth of their daughter, the petitioner and respondents No.2 and 3 (parents-in-law) started harassing and beating respondent No.1. The petitioner wanted to have a son and in order to fulfill his wishes, respondent No.1 underwent abortion twice. The petitioner had multiple extra-marital affairs and a child was also born out of one such relationship. The petitioner approached respondent



No.1 in an inebriated state and told her to sign divorce papers. On her refusal, he slapped and abused her. The brother of the petitioner, namely Amandeep Johl, also pressurized respondent No.1 to agree to divorce by mutual consent. Subsequently, respondents No.2 and 3 shunned her out of her matrimonial home stating that the house belongs to them. The petitioner also filed a divorce petition which was dismissed by the Hon'ble Supreme Court.

3. Consequently, respondent No.1 filed a petition under the DV Act which was allowed by the learned trial Court vide order dated 17.07.2018 whereby the petitioner was directed to pay Rs. 20,000/- per month as maintenance and provide a suitable residence to respondent No.1, failing which he was directed to pay Rs. 15,000/- per month towards rent. Aggrieved by the same, the petitioner preferred an appeal before the learned lower Appellate Court which was dismissed vide impugned order dated 26.11.2019.

4. Learned counsel for the petitioner, *inter alia*, contends that it cannot be said that the petitioner maltreated respondent No.1 after the birth of their daughter-Mina, who is now 34 years old as he was completely invested in her well-being and education. She completed her degree in Civil Engineering in Punjab Engineering College, Chandigarh. She also got an MBA from Western University, Ontario, Canada. Moreover, the couple started living separately since 1992 i.e. for over 25 years. The petitioner was also directed to pay Rs. 25,000/- per month as interim maintenance to his daughter by this Court. The Income Tax Returns of the petitioner would indicate that he is not earning more than Rs. 1,00,000/- per month. As such, he cannot afford to pay Rs. 35,000/- per month to respondent No.1. Respondent No.1 is a renowned architect and has a monthly income of Rs. 6,00,000/- and is fully capable of maintaining herself. Lastly, a *prima facie* case of domestic violence is not



made out against the petitioner, therefore, the learned Courts below have erred in granting maintenance of Rs. 35,000/- per month to respondent No.1.

5. Having heard the learned counsel for the parties and after perusing the record with their able assistance, it transpires that both the petitioner and respondent No.1 are architects by profession. As per the status report provided by the jurisdictional police before the learned Court below, the petitioner had extra-marital relationships with many other women. This act of the petitioner is clear emotional abuse and mental harassment which falls under the purview of domestic violence as per Section 3 of the DV Act, as such respondent No.1 is an 'aggrieved person' within the meaning of the said Act.

6. The DV Act was introduced to provide a safe environment to women, even in private spheres and seeks to reinforce the rights bestowed upon women by the Constitution of India. While the DV Act does not create any new offence, it provides remedies to victims of abuse. While the criminal prosecution for the incidents of domestic violence is dealt with by the general criminal law, the DV Act does stipulate punishment for violation of a protection order issued under it. As such, it is evident that the DV Act concentrates on providing relief to the victim rather than punishing the perpetrator.

7. The marriage between the parties is admitted and they also have a child together. The conduct of the petitioner makes him liable to be proceeded against under the DV Act. In the maintenance proceedings initiated by his daughter Mina, concerned Court has ascertained the income of the petitioner to be Rs.13,62,390/- per annum. Thus, the petitioner is fully capable of paying the liability fastened upon him. The learned Courts below have correctly directed him to pay maintenance to respondent No.1 and provide suitable



accommodation to her, especially in light of the admission that the house she previously resided in has been sold out by the parents of the petitioner. Further still, order directing the petitioner to pay interim maintenance to his daughter Mina under Section 125 Cr.P.C. has been set aside by this Court vide order dated 08.11.2024 in CRR(F)-633-2019 in view of *Abhilasha vs. Prakash 2020 AIR SC 4355* as she has attained majority.

8. In view of the discussion above, the present petition is dismissed being bereft of any merit. However, if the petitioner is paying maintenance to respondent No.1 under any other statute, the same shall be liable to be set off against the amount awarded to her under the DV Act in view of the ratio laid down in *Rajnish vs. Neha and another (2021) 2 SCC 324*.

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

November 08, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |