



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

131**CR-6486-2024****Date of Decision: 07.11.2024****Arvinder Kaur and another**

....Petitioners

Versus

Harminder Pal and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Parampreet Singh Paul, Advocate
for the petitioners.

VIKAS SURI, J. (Oral)

1. This revision petition under Article 227 of the Constitution of India has been preferred by the petitioners assailing order dated 10.09.2024 (Annexure P-6) passed by learned Principal Judge, Family Court, Rupnagar, whereby the application moved by the petitioners for consolidation of the proceedings under Protection of Women from Domestic Violence Act, 2005 (for short, 'DV Act') and Hindu Marriage Act, 1955 (for short, 'HMA'), was dismissed.

2. Briefly stated, the marriage of the parties was solemnized on 06.12.2014 and from the said wedlock one daughter namely Avreet Kaur was born. In view of matrimonial discord, the petitioners filed a complaint under Sections 12, 17, 18, 19, 20 and 22 of the DV Act. It is averred that the



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petitioner had earlier filed a complaint, which was dismissed as withdrawn with liberty to file a fresh one on the same cause of action, vide order dated 01.09.2023 (Annexure P-2). The present complaint has been instituted against the husband, his old aged parents, brother and sister-in-law. The complainant and her husband are residing separately since June 2016. The aforesaid complaint was instituted on 03.10.2023 during the pendency of a petition filed by the husband against petitioner No.1 under Section 13 of HMA for dissolution of marriage by a decree of divorce. The petitioner preferred an application under the provisions of the DV Act before the learned Family Court for consolidation of both the petitions. The first petitioner also undertook to produce the entire evidence on one date, and permission to produce the evidence in support of the petition under the DV Act.

3. On notice of the application, the same was opposed by filing reply and taking up preliminary objections regarding maintainability of the application. It was submitted that the complainant had earlier withdrawn the complaint on 06.08.2022, which was disposed of vide order dated 12.08.2022 in the National Lok Adalat. The complainant got the said complaint revived on 01.09.2022 and when the same was fixed for arguments, she again withdrew the same. It was further submitted that the complainant has been awarded a sum of Rs.5,000/- as rent in view of shared household under the DV Act. Dismissal of the application was sought on the aforesaid ground.

4. On consideration of the rival contentions advanced by both the parties, the learned Principal Judge, Family Court, Rupnagar, dismissed the application by observing that in terms of Section 26 of the DV Act, only the



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reliefs provided under Sections 18 to 22 of the DV Act can be sought by the aggrieved person in any other proceedings initiated in any other Court. It is thus, held that the Family Court cannot go beyond the statute so as to interpret the provisions not intended by the legislature.

5. Learned counsel for the petitioners has argued that the present complaint could have been tried by the Family Court and the same is permissible under Section 26 of the DV Act. He has relied upon the decision of the Bombay High Court in *Sandip Mrinmoy Chakraboarty vs. Reshita Sandip Chakrabarty and another*, Law Finder Doc ID 1213874, and that by the Delhi High Court in *S vs. J*, 2018(2) DMC 35.

6. I have heard learned counsel for the petitioners and perused the case file with his able assistance.

7. It would be apposite to refer to Sections 26, 27 and 28 of the DV Act, which read as thus:-

“26. Relief in other suits and legal proceedings. -- (1) Any relief available under Sections 18, 19, 20, 21 and 22 may also be sought in any legal proceeding, before a civil court, family court or a criminal court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act.

(2) Any relief referred to in sub-section (1) may be sought for in addition to and along with any other relief that the aggrieved person may seek in such suit or legal proceeding before a civil or criminal court.

(3) In case any relief has been obtained by the aggrieved person in any proceedings other than a proceeding under this Act, she shall be bound to inform the Magistrate of the grant of such relief.



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27. Jurisdiction. -- (1) The court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which --

- (a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or
- (b) the respondent resides or carries on business or is employed; or
- (c) the cause of action has arisen,

shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act.

(2) Any order made under this Act shall be enforceable throughout India.

28. Procedure. -- (1) Save as otherwise provided in this Act, all proceedings under sections 12, 18, 19, 20, 21, 22 and 23 and offences under section 31 shall be governed by the provisions of the Code of Criminal Procedure, 1973 (2 of 1974).

(2) Nothing in sub-section (1) shall prevent the court from laying down its own procedure for disposal of an application under section 12 or under sub-section (2) of section 23.”

8. The marriage of the parties and their relationship is not in dispute. It is also not disputed that during the pendency of petition under Section 13 HMA, the petitioners filed a petition under Sections 12, 17, 18, 19, 20 and 22 of the DV Act, wherein categoric prayer under different provision of the DV Act was made, as is evident from the headnote of the complaint, which is reproduced hereunder for reference:-

“Complaint U/s 12, 17, 18, 19, 20, 22 of the Protection of Women from Domestic Violence Act 2005 (43 of 2005), directing the respondents to pay sum of Rs.10,00,000/- as damages for physical, mental and financial harassment, torture and injuries caused by the respondents as the act of Domestic Violence in connivance with



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each other and further directing the respondent No.1 to pay Rs.50,000/- per mensum to the complainant No.1 and Rs.30,000/- to complainant No.2 as maintenance and also directing the respondent No.1 to provide the accommodation to the complainants in the shared household and not to eject/dispossess the complainants from the shared household situated at village Nikkuwal, PS and Tehsil Sri Anandpur Sahib District Rupnagar or permit her to go to the matrimonial house and take and use the dowry articles lying in the sharehold house in village Nikkuwal, Tehsil Sri Anandpur Sahib District Rupnagar and in the alternative directing the respondents to pay the rent of the sharehold house to the tune of Rs.20,000/- per mensum to the complainant and also directing them to pay litigation expenses to the tune of Rs.1,00,000/- and also directing the respondent No.1 to return the amount of Rs.5,84,000/- to complainants, which was wrongly and illegally withdrawn by the respondent No.1 from the ATM of State Bank of India Branch Nurpur Bedi of the complainant No.1.”

9. Perusal of Section 26 of the DV Act would reveal that the intent of the legislature was to provide quick relief to the aggrieved person under the provisions of the DV Act. The provisions of the Act were enacted with the object of creating an additional forum for litigation so as to ensure expeditious redressal of grievances. Specific remedy in terms of procedure has been provided under the Act itself. Section 28 of the Act provides that all proceedings under Sections 12, 18, 19, 20, 21, 22 and 23 shall be governed by the provisions of the Code of Criminal Procedure, 1973. Section 28(2) of the Act further provides that for disposal of an application under Section 12 or under sub-Section 2 of Section 23, it is open to the Court to lay down its own procedure for disposal of the application. Section 26(2) of the Act, which is sought to be invoked in the present case,



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specifically prevents that any relief referred to in sub-Section 26(1) may be sought for in addition to and along with any other relief that the aggrieved person may seek in such suit or legal proceeding before a civil or criminal Court. The relief specified under sub-Section 1 of Section 26 are those provided under Sections 18, 19, 20, 21 and 22 of the DV Act.

10. In the present case, the complainant also seeks relief under Section 17 of the DV Act i.e. with right to reside in a shared household. It is not disputed that in terms of the relief sought in the aforesaid section, an amount of Rs.5,000/- as rent in lieu of shared household, stands awarded to the petitioners.

11. It is settled law that the intent of the legislation can only be inferred from the language of the statute and while interpreting the same, the Courts would not add and subtract. It is apparent that relief under Section 17 of the DV Act was not intended to be included in any legal proceeding before a Civil Court, Family Court or a Criminal Court, in terms of Section 26 of the DV Act. The judicial precedents pressed into service on behalf of the petitioners are of no avail to them. In **Sandip Mrinmoy Chakraborty's case** (supra), the complainant did not seek relief under Section 17 of the DV Act. All the relief sought therein were confined to Sections 18 to 22 of the DV Act, which fall within the ambit of Section 26 of the DV Act. The same is the position in **S's case** (supra), rendered by the Delhi High Court.

12. In the light of the aforesaid discussion, in my considered view, the petitioner, having sought relief beyond those contemplated under



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Section 26 of the Act, could have been proceeded against only under the DV Act and not by way of independent proceedings before a Civil Court, Family Court or Criminal Court.

13. Resultantly, the present petition being bereft of merit, is dismissed.

November 07, 2024

Varinder

**(VIKAS SURI)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No