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

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Date of decision : 10.02.2025

Smt. Seema

..... Petitioner

V/S

State of Haryana and Ors.

..... Respondents

CORAM : HON'BLE MS. JUSTICE AMARJOT BHATTI

Present: Mr. Aditya Sanghi, Advocate with
Mr. Himanshu Garg, Advocate for petitioner.

Ms. Ambika Sood, Addl. A.G., Haryana.

AMARJOT BHATTI J. (ORAL)

1. Petitioner-Seema filed petition under Section 482 Cr.P.C. for quashing of criminal complaint filed under Section 12 of the Protection of Women from Domestic Violence Act, 2005 bearing registration No.317/2018 registered on 11.09.2018 titled "Preety vs. Sankalp Kumar and Another" (Annexure P-1) pending before learned Judicial Magistrate Ist Class, Gurugram and all consequential proceedings arising therefrom or any other relief which the Court may deem fit in the given facts and circumstances of the case.

2. As per the facts, Preety filed application under Section 12 of Protection of Women from Domestic Violence Act, 2005 that earlier she was married to Shashi Kant Pandey on 25.11.2011 as per Hindu Customary Rites and Ceremonies and their marriage was registered on 06.02.2012 in the office of Kota Municipal Corporation, Rajasthan. Out of this wedlock, she was having a daughter Jiya born on 11.03.2014.

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Later on, she came to know that said Shashi Kant Pandey was married to Padma Pandey on 14.07.2010 and without getting divorce from his first wife, he performed marriage with applicant-Preety. She filed petition for annulment of marriage and same was decided in her favour. The applicant-Preety and respondent No.1-Sankalp Kumar were in relationship with each other and out of this relationship, she gave birth to Aanya Gadai on 02.07.2015. She has filed this application against respondents who have treated her with utmost cruelty, mental stress and harassment. Respondent No.1-Sankalp Kumar is serving in Government of Haryana whereas respondent No.2-Seema is Assistant Lecturer (Computer Science) at Chaudhary Devi Lal Memorial Engineering College, Panniwala Mota, District Sirsa, Haryana. Respondent No.1-Sankalp Kumar filed divorce petition against respondent No.2-Seema on 08.12.2015 on the grounds of cruelty which is still pending. The applicant-Preety came to know that respondent No.1-Sankalp Kumar willfully and deliberately transferred his half share in property i.e. Apartment No.1002-1003, Block G-3, 10th Floor, Maya Garden, City Zirakpur, Ambala Highway, Zirakpur (Mohali) in the name of his wife Seema Rani through deed dated 15.09.2017 and relinquished his all claims in favour of his wife. The conduct of respondent No.1-Sankalp Kumar clearly shows that he in connivance with respondent No.2-Seema and Mr. Rajinder Kumar Gadai (father of respondent No.1) who filed one complaint against Sankalp Kumar and others, under Sections 494, 506 of IPC in District Court, Hisar, Haryana with false accusations. Said complaint levelling allegations of bigamy could have been filed by the spouse and not by the relative. Said complaint was filed only to harass and malign the reputation of applicant in the society and public at large. Applicant had approached Punjab and Haryana High Court, Chandigarh to seek justice and the proceedings were stayed against the applicant.



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Both respondents have connived with each other to cheat the applicant and to deprive her and her child of their right in the property i.e. the aforesaid apartment. The attitude of respondent No.1-Sankalp Kumar has turned aggressive towards her. Ultimately, she filed the complaint on 11.09.2018 against respondent No.1-Sankalp Kumar and respondent No.2-Seema i.e. present petitioner.

3. Learned counsel for petitioner argued that aforesaid complaint under Section 12 of Protection of Women from Domestic Violence Act, 2005 has been filed with *mala fide* intention. As per the real facts, respondent Sankalp Kumar was married to petitioner-Seema on 22.10.2004 at Sirsa and out of this wedlock, they had two daughters i.e. Rishika (11years old) and Shanya (07 years old). They lived together in the matrimonial home at Sirsa for six years and thereafter her husband was transferred to different places i.e. at Hisar, Panchkula, Faridabad and Gurugram and they lived together for about six years in rented accommodation. In the middle of 2015, petitioner noticed that her husband Sankalp Kumar used to talk to an unknown lady for hours together and subsequently, she came to know about extra marital relationship of her husband-Sankalp Kumar with Preety. She also came to know that out of this illegal live-in-relationship, they had a daughter Anya Gadai born on 02.07.2015 and the birth certificate is Annexure P-2. Said Preety was earlier married to Shashi Kant Pandey and out of this wedlock, she had a daughter Jiya born on 11.03.2014. Since, Shashi Kant Pandey was already married, therefore, respondent No.2-Preety filed a petition for annulment of marriage which was decided in her favour vide order dated 23.03.2016 (Annexure P-3). In the meanwhile, Rajinder Kumar Gadai (father-in-law) of petitioner came to know that respondent No.3-Sankalp Kumar was getting married with respondent No.2-Preety in a *Mandir* at Gurugram. He tried to stop them from getting married but they did

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not stop and ultimately, marriage took place on 07.05.2016. Her father-in-law filed complaint against both of them under Sections 494, 506 of IPC in which summoning order dated 27.07.2016 (Annexure P-4) was passed. In the meantime, talk regarding compromise was going on. However, respondent No.3-Sankalp Kumar filed divorce petition against present petitioner and tried to obtain ex-parte decree of divorce. Present petitioner came to know about publication in the newspaper and she contested the said divorce petition which is Annexure P-5. Again talks took place regarding compromise. Present petitioner and respondent No.3-Sankalp Kumar had taken flat in their joint names on loan and regarding said flat proceedings were initiated under SARFAESI Act, 2002. The matter was settled in which respondent No.3-Sankalp Kumar agreed to transfer his share in the said flat in favour of petitioner and from then onwards, EMI was to be paid by present petitioner. Regarding this compromise respondent No.3-Sankalp Kumar gave affidavits and letter dated 16.07.2017 addressed to Maya Garden Builder for transfer of his share in single name, the said affidavits and letter are Annexure P-6 (colly). Complaint under Sections 494, 506 of IPC was also compromised and disposed of accordingly vide order dated 28.09.2018 (Annexure P-7). It was agreed that respondent will maintain daughters by depositing money in the account of his father and his share in the said flat was transferred in the name of present petitioner. Copy of compromise and affidavit are Annexure P-8 (colly).

Respondent-Preety filed the aforesaid complaint in order to create her share in the flat which is already transferred by respondent No.3-Sankalp Kumar in favour of present petitioner. There is no dispute between respondents No.2 and 3. Respondent No.2-Preety tried to obtain interim relief regarding this property from the Court of learned Judicial Magistrate Ist Class, Gurugram which was declined

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vide order dated 09.10.2018 (Annexure P-9). Respondent No.2-Preety has uploaded her photographs along with respondent No.3-Sankalp Kumar on facebook page after filing of complaint dated 11.09.2018. No domestic violence took place as claimed by respondent No.2-Preety. In fact, it is the petitioner who is the legally wedded wife of respondent No.3-Sankalp Kumar and faced matrimonial discord on account of respondent No.2-Preety. Divorce case is still pending. She is living separately and looking after her daughters. There was no occasion for her to share house while respondents No.2 and 3 were staying together. The aforesaid complaint under Section 12 of Protection of Women from Domestic Violence Act, 2005 has been filed to harass the present petitioner. The complaint is gross misuse of the provisions of Protection of Women from Domestic Violence Act, 2005. It is submitted that petition filed by petitioner may be accepted by quashing the complaint filed by respondent No.2-Preety qua her.

4. Notice of petition was given to respondents No.2 and 3 who were duly served as per order dated 23.05.2022 but nobody opted to appear in the Court to contest the present petition.

5. I have considered the arguments and have gone through the record carefully. In the case in hand respondent No.2-Preety filed application under Section 12 of Protection of Women from Domestic Violence Act, 2005 on 11.09.2018 (Annexure P-1) against respondent No.3-Sankalp Kumar and Seema (present petitioner). The facts of the case referred above clearly indicates that present petitioner Seema is the legally wedded wife of respondent No.3-Sankalp Kumar and regarding matrimonial dispute respondent No.3-Sankalp Kumar filed divorce case against his wife Seema on the ground of cruelty which is Annexure P-5. Till date, the said divorce case is pending. Respondent No.2-Preety was earlier

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married to one Shashi Kant Pandey and out of this wedlock, she was having a daughter Jiya born on 11.03.2014. Their marriage was annulled vide order dated 23.03.2016 (Annexure P-3). Thereafter, respondent No.3-Sankalp Kumar during subsistence of his marriage with petitioner-Seema came in contact with respondent No.2-Preety and out of this relationship, Preety gave birth to another daughter Anya Gadai. Copy of her birth certificate is Annexure P-2. From this onwards, the dispute started between petitioner-Seema and respondent No.3-Sankalp Kumar. Even father-in-law of petitioner filed complaint against his son respondent No.3-Sankalp Kumar and respondent No.2-Preety under Sections 494, 506 of IPC. During this period, compromise took place vide which respondent No.3-Sankalp Kumar agreed to transfer his one half share in the flat in favour of petitioner-Seema and also gave necessary affidavit and letter dated 16.09.2017 (Annexure P-6) (colly) for transfer of his share in the name of petitioner-Seema, who was responsible to pay EMI. Matter regarding complaint under Sections 494, 506 of IPC was also compromised vide which respondent No.3-Sankalp Kumar agreed to deposit money in the account of his father for upbringing his two daughters out of wedlock with petitioner-Seema. Said compromise is Annexure P-8 and on that basis, complaint was dismissed as withdrawn on the same day vide order dated 29.09.2018 (Annexure P-7).

Subsequently, after the aforesaid litigation and compromises arrived at between the petitioner, her husband Sankalp Kumar and his father, complaint is filed by respondent No.2-Preety under Section 12 of Protection of Women from Domestic Violence Act, 2005. The contents of complaint (Annexure P-1) clearly indicates that initially she was not married with Sankalp Kumar. They were in live-in-relationship and out of this relationship, she gave birth to a daughter on 02.07.2015.

Present petitioner is legally wedded wife of respondent No.3-Sankalp Kumar. Their

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marriage took place on 22.10.2004 and out of this wedlock, they were having two daughters. Elder daughter is 11 years old and younger daughter is 07 years old. Present petitioner is also contesting the divorce petition filed against her by her husband Sankalp Kumar which is still pending. Therefore by no means, the complaint filed by respondent No.2-Preety against present petitioner-Seema levelling allegations under Protection of Women from Domestic Violence Act, 2005 are justified. In fact, it is the petitioner who is suffering due to extra marital affair of her husband Sankalp Kumar with respondent No.2- Preety. Continuation of complaint against present petitioner under the provisions of Section 12 of Protection of Women from Domestic Violence Act, 2005 is gross misuse of criminal procedure initiated against present petitioner.

6. Therefore, I find merits in the petition filed by petitioner and the same is accordingly accepted. The complaint bearing registration No.317/2018 registered on 11.09.2018 titled "Preety vs. Sankalp Kumar and Another" (Annexure P-1) stands quashed qua present petitioner-Seema.

7. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

(AMARJOT BHATTI)
JUDGE

10.02.2025.*Sunil Devi*

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No