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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 25.02.2025

+ **CRL.REV.P.(MAT.) 91/2025**

SONALI GUPTA

.....Petitioner

Through: Mr. Amit Kumar, Adv.

versus

AMIT GUPTA @ SACHIN & ORS.

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

: **JASMEET SINGH, J (ORAL)**

CRL.M.A. 6086/2025

Exemption allowed, subject to all just exceptions.

The application is disposed of.

CRL.REV.P.(MAT.) 91/2025

1. This is a petition seeking to challenge the judgment dated 07.11.2024 passed by learned District and Sessions Judge, South District, Saket Court, wherein the Sessions Court has upheld the order dated 13.03.2024 passed by learned MM-02, Mahila Court, South Saket in complaint case No. 544/2024.
2. The facts are that the petitioner got married to respondent No. 1 on 31.01.2023 and there is no child born out of the wedlock.
3. Since the petitioner alleged that she was subjected to physical and mental abuse, anger and torture, she filed a complaint under Section 12 of the Domestic Violence (DV) Act against the respondent.
4. Respondent No. 1 is the husband, respondent No. 2 is the mother-in-law, respondent No. 3 is the brother-in-law.
5. Respondent Nos. 4, 5 and 6 are the sisters-in-law. Mr. Kumar, learned counsel for the petitioner states that respondent No. 7 is the husband



of respondent No. 6.

6. The learned MM *vide* impugned order dated 13.03.2024, issued summons to only respondent No. 1 and declined to issue summons to respondent Nos. 2 to 7.

7. This order was challenged by the petitioner by filing an appeal under Section 29 of the DV Act.

8. The learned District Judge *vide* judgment dated 07.11.2024 was pleased to uphold the order of the learned MM.

9. The learned District Judge held as under:

“9. The primary ground of filing the present appeal is that learned trial court has not summoned respondents no.2 to 7 despite there being specific allegations against them and they had committed domestic violence with appellant while residing in shared household.

10. The important issue that is to be addressed in the present appeal is, "whether a domestic relationship as provided under Section 2(f) of DV Act subsisted between the parties or not, so as to summon them as respondents in the complaint filed by the complainant/appellant against them. To deal with the aforesaid issue, it is necessary to understand the scheme of DV Act. Section 2(a) defines "aggrieved person" which means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent Section 2(f) describes "domestic relationship" which means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are



related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family. Section 2(g) defines the term "domestic violence" which has been assigned and given the same meaning as in Section 3. Section 2(s) describes meaning of "shared household".

*11. It is relevant to refer to the judgment in case titled **Prabha Tyagi Vs. Kamlesh Devi, Criminal Appeal No.511/2022** passed on **12.05.2022**, wherein the Hon'ble Supreme Court has considered the following issues :-*

“(ii) Whether it is mandatory for the aggrieved person to reside with those persons against whom the allegations have been levelled at the point of commission of violence”?

(iii) Whether there should be a subsisting domestic relationship between the aggrieved person and the person against whom the relief is claimed?”

It was held by Hon'ble Supreme Court :-

“In our view, the question raised about a subsisting domestic relationship between the aggrieved person and the person against whom the relief is claimed must be interpreted in a broad and expansive way, so as to encompass not only a subsisting domestic relationship in presentia but also a past domestic relationship. Therefore, the Parliament has intentionally used the expression 'domestic relationship' to mean a relationship between two persons who not only live together in the shared household but also between two persons who 'have at any point of time lived together' in a shared household”



It was further held:-

“It is further held that it is not mandatory for the aggrieved person, when she is related by consanguinity, marriage or through a relationship in the nature of marriage, adoption or are family members living together as a joint family, to actually reside with those persons against whom the allegations have been levelled at the time of commission of domestic violence. If a woman has the right to reside in the shared household under Section 17 of the D.V. Act and such a woman becomes an aggrieved person or victim of domestic violence, she can seek reliefs under the provisions of D. V. Act including enforcement of her right to live in a shared household.

There should be a subsisting domestic relationship between the aggrieved person and the person against whom the relief is claimed vis-à-vis allegation of domestic violence. However, it is not necessary that at the time of filing of an application by an aggrieved person, the domestic relationship should be subsisting. In other words, even if an aggrieved person is not in a domestic relationship with the respondent in a shared household at the time of filing of an application under Section 12 of the D. V. Act but has at any point of time lived so or had the right to live and has been subjected to domestic violence or is later subjected to domestic violence on account of the domestic relationship, is entitled to file an application under Section 12 of the D.V. Act”.

12. In the present case, appellant is wife of respondent no.1 and daughter-in-law of respondent no.2 and sister-in-law of remaining



respondents. The appellant has stated that she was subjected to torture, mental harassment, cruelty and domestic violence at the hands of respondents no.2 to 7 while residing with them in shared household. The appellant herself has admitted in her complaint that the shared household where she is residing is built up property of upto 4 floors and the parties are residing separately from each other on different floors. As per DIR also, respondents no.5 and 6 are married Nanads of appellant and respondent no.7 is husband of respondent no.6 and they all are residing separately from appellant. Further, DIR also did not mention about sharing of common kitchen and living room by all the respondents, as stated by appellant in her complaint. Though, the party are related to each other through marriage of appellant with respondent no.1 but there are no specific allegations against respondents no.2 to 7 of committing domestic violence while residing in shared household. The appellant even in her complaint made to PS Tigri has mentioned only general allegations of dowry demands and taunting. Though she has stated that she was given beatings by them but she has not placed on record any supporting document or evidence to prove the same. She herself has also stated that she was confined to third floor only where she was residing with respondent no.1, this fact further falsify the allegation of appellant that she was subjected to domestic violence at the hands of respondents no.2 to 7.

13. It is pertinent to mention here that it has been held time and again that at the stage of summoning, mainly, the allegations mentioned in the complaint and the documents annexed with it are



to be seen that if prima-facie there is sufficient ground to proceed against the accused persons. In the complaint filed by appellant before trial court as well as the complaint filed before SHO PS Tigri reflects that she has not given any particular incident of beatings or harassment by respondents no.2 to 7 or committing domestic violence by them. All the allegations made by her are general and vague in nature as has been rightly observed by learned trial court.

14. It will not be out of place to mention here that in domestic violence cases, allegations are sometimes vague and lack specificity, which can make it difficult to establish their validity. There is also a tendency for family members of the accused to be implicated without any genuine or clear basis, often due to ambiguous claims. In some instances, these vague allegations are used as a tool of harassment, where the complainant seeks to punish or exert pressure on the accused or their relatives. This misuse of allegations can be motivated by personal interests, such as gaining an unfair advantage or causing distress to the accused. Consequently, it is crucial for the court to carefully scrutinize the evidence and material placed on record to prevent abuse and ensure justice.

15. In the present case, learned trial court in her discretion has rightly appreciated the material placed on record and DIR filed before her and correctly declined to summon the respondents no.2 to 7. Furthermore, the case is at initial stage and the appellant will get ample opportunities to prove her case by adducing sufficient



evidence that she was residing in shared household and was in domestic relationship.

16. In view of the above findings, it is held that learned Trial court has rightly passed the impugned order and there is no infirmity and illegality in the same and hence, the same does not require any interference. Accordingly, the appeal stands dismissed.

17. Nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.”

10. Mr. Kumar, learned counsel for the petitioner states that the order is incorrect and states that once there are averments in the petition regarding the act of domestic violence, the concerned court is required to issue summons to all the accused.

11. He relies upon the averments in paras 7 to 17 of the complaint which reads as under:

“7. That after the marriage, the Respondents used to pressurize the Complainant/Applicant sometime for bringing the Bullet motorcycle and some time they used to demand car from the Complainant/Applicant. Whenever, the Complainant/Applicant refused to their said demand they used to beat her mercilessly. They behaved with the Complainant/Applicant as an animal and they never allowed the Complainant/Applicant to meet her relatives and parents. The Respondents did not eat food cooked by the Complainant/Applicant and also did not allow her to sit with them on dining table. However, the Respondents used to eat together.

8. That the Respondent No. 2 to 7 used to instigate the Respondent No.1 for beating the Applicant. On dated 05.03.2023, 20.04.2023,



10.06.2023 The Respondent No.1 beated the
Complainant/Applicant with belt. It became routine and habit of the
Respondents to scold the Complainant/Applicant and beat her.
Whenever, any hot discussion had happened between the
Respondent No.1 and the Complainant/Applicant, then the
Respondent No.2 did not allow the Respondent No.1 to meet the
Complainant/Applicant and the Respondent No.6 used to tell the
Complainant/Applicant that she will not allow her to settle her
family life.

9. That the Respondent No.2 harassing the Complainant/Applicant
by saying that since the Complainant/Applicant had studied in
college therefore she will not allow her to live with them in shared
household. The Respondents did not allow the
Complainant/Applicant to call her parents over phone and never
given any money for her daily necessities and livelihood.

10. That even after the one year of marriage of the
Complainant/Applicant, the Respondent No.1 had only recharged
the mobile number of the Complainant/Applicant only once and that
too for Rs. 20/-. Whenever, the Respondent No.1 & 2 allowed the
Complainant/Applicant to communicate with her parents, they
stood there so that the Applicant couldn't tell her parents about the
cruelties committed by the Respondents.

11. That the Respondent No.1 rejoiced and became happy by
committing cruelties with the Complainant/Applicant. Whenever the
Complainant/Applicant protested the cruelties of the Respondent
No.1 he used to do unnatural sex with her against her will and



consent. Whenever, the menstrual Cycle (period) of the Complainant/Applicant started, the Respondent No.1 deliberately committed sex with her against her will and consent. When the Complainant/Applicant protested the aforementioned sex and unnatural sex by the Respondent No.1, he used to threat her by saying that get pregnant on her own and he will divorce the Complainant/Applicant and will marry with another girl. The Respondent No.1 became happy by harassing her.

12. That the Respondents had compelled and confined the Applicant to reside on the third floor of shared household only. They did not allow the Complainant/Applicant to come outside the room. Due to regular harassment and cruelties of the Respondents, the mental conditions of the Complainant/Applicant became deteriorated and due to depression she could not sleep. The Respondent No.1 never took the Complainant/Applicant outside her matrimonial home. Once on 29.07.2023 a plan was made to visit the Vaishnav Devi and the Complainant/Applicant and the Respondents even reached to the railway station, then the Respondent No.5 had started brawling/fighting with the Applicant and also scolded her, then the Respondent No.1 at about 2.30 am night took the Applicant in her parental home and left there.

13. That after one months of incidence dated 29.07.2023, the Respondent No. 1&3 and their relatives came to the parental home of the Complainant/Applicant and took her back to matrimonial home. However, thereafter many times the Respondents provoked and derived the Complainant to commit suicide by jumping from the



terrace of the Shared Household.

14. That when the parents of the Complainant/Applicant came to know about the aforementioned cruelties and domestic violence committed by the Respondents then they brought back the Complainant/Applicant to her parental home and since then she is residing with her parents at the address C-1636-37, C-Block. Tigri, New Delhi-110080.

15. That in her parental home the Complainant/Applicant told her mental conditions and sleeplessness to her parents due to aforementioned cruelties by the Respondents, then on 22.09.2023 her mother took her to Max Hospital psychiatrist department for her treatment where her treatment is still continue. A copy of treatment paper of the Applicant is annexed hereto as Annexure-F.

16. That whenever, the parents of the Applicant informed the Respondents about the said treatment of the Applicant, then they demanded the hospital treatment paper of the Applicant. After receiving the said paper the Respondents now started threatening the Applicant that they will leave her as she became mad. They had disseminated said illness of the Applicant to the relatives by saying that they will not take the Applicant back in shared household and they will solemnize the second marriage of the Respondent No.1. As a matter of fact the Applicant is not mad and she is first division graduate from Gargi College, Delhi University in Life Science. A copy of graduation certificate of the Applicant is annexed hereto as Annexure-G.

17. That right since the marriage, the Respondents had committed



all sorts of cruelties and domestic violence with the Complainant/Applicant due to which she met with the illness of depression and her treatment is continued in Max Hospital, Saket. The said cruelties and domestic violence of the Respondent became unbearable to the Complainant/Applicant hence on 16.01.2024, she made written complaint addressed to SHO, PS-Tigri, New Delhi-110080, however the concerned police official/DO of PS-Tigri had refused to receive the same and thus the Complainant/Applicant had sent the same through speed post on 16.01.2024. A copy of complaint dated 16.01.2024 addressed to SHO, PS-Tigri, New Delhi is annexed hereto as Annexure-H. Tracking report of the speed post dated 16.01.2024 is annexed hereto as Annexure-I.”

12. As per the petitioner herself, her household where she is residing is a built-up property of 4 floors and all the parties are residing separately from each other at different floors. Her own averments in the complaint read as:-

5. That after the marriage the Complainant/Applicant went to her matrimonial home i.e. B 1 - 523, Madangir, New Delhi-110062 i.e. shared household along with her husband i.e. the Respondent No.1 herein. It is pertinent to mention here that shared household of the Complainant/Applicant is built-up property up to the Four Floors. On the third Floor of the said building the Complainant/Applicant is residing with the Respondent No.1. On the First Floor of the said building the Respondent No. 2 is residing. On the second Floor the Respondent No.384 are residing.....



13. A perusal of the above paragraph shows that the respondent No. 2 to 7 have not lived together in a shared household with the petitioner. The petitioner's own averments in the complaint show that she was living with respondent No. 1 on the third floor.

14. Even as per the DIR, respondent Nos. 5 and 6 are married and respondent No. 7 is the husband of respondent No. 6 and they are not even residing in the house where the petitioner was residing with respondent No. 1.

15. The averments reproduced in para 7 to 17 of the complaint show that they are vague, lack specificity and are of general nature.

16. To my mind, the present petition is only an attempt to arm twist respondent Nos. 2 to 7. A perusal of the complaint filed by the petitioner before the Trial Court and the complaint filed by her before SHO PS Tigri shows that she has not given any incident of beatings or harassment by respondents No. 2 to 7 or committing domestic violence by them. She has only mentioned general allegations of demands of dowry and taunting against them. Further, she herself has stated that she was confined only to third floor where she was residing with the respondent No. 1.

17. For the reasons stated above, I am of the view that the learned Sessions Court has correctly appreciated the law as well as the factual averments and correctly upheld the order of the learned MM-02, Mahila Court dated 13.03.2024. I find no reason to entertain the present petition and the same is therefore dismissed.

JASMEET SINGH, J

FEBRUARY 25, 2025/DM

(Corrected and released on 12.03.2025)