

(2012) 08 P&H CK 0203

High Court Of Punjab And Haryana At Chandigarh**Case No:** Criminal Miscellaneous No. M-30602 of 2009 (O and M)

Surinder Kumar and Others

APPELLANT

Vs

Iqbal Kaur and Another

RESPONDENT

Date of Decision: Aug. 21, 2012**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Penal Code, 1860 (IPC) - Section 120B, 406, 498A
- Protection of Women From Domestic Violence Act, 2005 - Section 12, 17, 18, 19, 20

Hon'ble Judges: Sabina, J**Bench:** Single Bench**Advocate:** V. Ramswaroop, for the Appellant; A.P. Kaushal, Advocate, for respondent No. 1, Mr. K.D.S. Sandhu, Addl. A.G, Punjab., for the Respondent**Final Decision:** Allowed

Judgement

Sabina, J.

Petitioners have preferred this petition u/s 482 of the Code of Criminal Procedure, 1973 for quashing of criminal complaint No. 79 dated 19.8.2009 (Annexure P-1) filed by respondent No.1 titled Iqbal Kaur vs. Rakesh Kumar and others under Sections 12, 17, 18, 19, 20 and 22 of the Protection of Women from Domestic Violence Act, 2005 (the Act for short) and all the subsequent proceedings arising therefrom. Learned counsel for the petitioners has submitted that qua the similar allegations, petitioners No. 2 and 3 had faced trial under Sections 498A, 406, 120B of the Indian Penal Code, 1860 (IPC for short) in FIR No. 103 dated 21.11.2006 registered at Police Station Anandpur Sahib. The trial Court had convicted and sentenced petitioners No. 2 and 3 qua commission of offence punishable under Sections 498A, 406, 120B IPC vide judgment dated 22.8.2008 (Annexure P-3). In appeal, petitioners No. 2 and 3 were acquitted of the charges framed against them vide judgment dated 3.2.2009 (Annexure P-4). Thereafter, the complaint in question (Annexure P-1) under the Act was filed levelling similar allegations. The said complaint was liable to be quashed.

2. Learned counsel for respondent No. 1, on the other hand, has submitted that the complaint in question was liable to continue as the petitioners had committed offence under the Act.

3. After hearing learned counsel for the parties, I am of the opinion that the present petition deserves to be allowed.

4. The case of complainant, in brief, is that she was married to Rakesh Kumar on 22.10.2001. Thereafter, they lived together as husband and wife and were blessed with a child. After seven months of their marriage, the accused started misbehaving with complainant. Rakesh Kumar was working in a foreign country and his father Surinder Kumar had returned from Manila. Complainant was thrown out of the matrimonial home on 28.5.2006 by Kamla Devi and Parveen Kumari and all the istridhanarticles were retained by them. Hence, the complaint was filed.

5. Complainant had earlier lodged FIR No. 103 dated 21.11.2006 against petitioners No. 2 and 3 under Sections 498A, 406, 120B IPC at police station Anandpur Sahib. A perusal of judgment dated 22.8.2008 (Annexure P-3) reveals that petitioners No. 2 and 3 were convicted and sentenced by the trial Court qua commission of offence punishable under Sections 498A, 406, 120B IPC. However, in appeal, they were acquitted of the charges framed against them vide judgment dated 3.2.2009 (Annexure P-4). A perusal of judgment dated 22.8.2008 (Annexure P-3) further reveals that on the similar allegations, as mentioned in the complaint in question, the FIR was lodged. After the acquittal of petitioners No. 2 and 3 qua the similar allegations the complaint in question (Annexure P-1) was filed under the Act.

6. Since, petitioners No. 2 and 3 had already faced criminal proceedings qua the similar allegations, the continuation of criminal proceedings on the basis of complaint (Annexure P-1) under the Act would be nothing but an abuse of process of law. At the time of lodging of the FIR, the Act had already come into force but no proceedings were launched under the Act. Hence, respondent No. 1 cannot be allowed to re-agitate the matter after the acquittal of petitioners No. 2 and 3 in the State case by filing the present complaint in question. Accordingly, this petition is allowed. Criminal complaint No. 79 dated 19.8.2009 (Annexure P-1) filed by respondent No. 1 titled Iqbal Kaur vs. Rakesh Kumar and others under Sections 12, 17, 18, 19, 20 and 22 of the Act and all the subsequent proceedings arising therefrom are quashed.