

(2017) 02 RAJ CK 0051
RAJASTHAN HIGH COURT
Case No: 1077 of 2014

Smt. Geeta W/o
Harbhajan Ram

APPELLANT

Vs

Harbhajan Ram @
Haribhajan Ram

RESPONDENT

Date of Decision: Feb. 10, 2017

Acts Referred:

- Code of Criminal Procedure, 1973, Section 397, Section 401 -
- Protection of Women from Domestic Violence, 2005, Section 23, Section 12

Hon'ble Judges: Goverdhan Bardhar

Bench: SINGLE BENCH

Advocate: Surendra Surana

Final Decision: Disposed

Judgement

1. The instant revision petition has been filed by the petitioners under Section 397 / 401 Cr.P.C. against the judgment dated 03-06- 2014 passed by the learned Additional District & Sessions Judge, No.4, Jodhpur Metropolitan whereby the learned Judge has dismissed the petitioners" appeal against the judgment dated 14.02.2014, passed by the Metropolitan Magistrate, Jodhpur Metropolitan whereby dismissing the petitioners" application for interim relief filed under Section 23 of the Protection of Women from Domestic Violence, 2005 (hereinafter "the Act of 2005").

2. Learned counsel for the petitioners argued that the petitioners being wife and children of respondent No.1--Harbhajan Ram filed a petition under Section 12 of the Act of 2005. Alongwith the main petition, a misc. application under Section 23 of the Act of 2005 was also filed but the learned trial court wrongly dismissed the interim

application on the ground that marriage has not been proved and domestic relation are disputed. Whereas as per provisions of the Act, there is no necessity to prove the marriage between the parties only domestic relations are to be looked while considering the application filed under the provision of the Act of 2005. Along with petition, the petitioners filed many documents as well as photographs, marriage card, birth certificate, documents of hospital and school report cards of children. The impugned orders are totally wrong and illegal and against the provisions of law.

3. I have heard learned counsel for the petitioners and perused the impugned orders passed by the learned courts below.

4. Both the learned courts below have dismissed the misc. application filed under Section 23 of the Act of 2005 for grant of interim relief during pendency of the main petition filed under Section 12 of the Act of 2005.

5. I do not find any ground to interfere with the impugned orders passed by the learned courts below at the intermediate stage of the main proceedings under Section 12 of the Act of 2005 pending before the trial court.

6. However, it is directed to the learned trial Court to decide the main petition filed under Section 12 of the Act of 2005 by the petitioners expeditiously without being influenced by the observations made in the impugned orders on the misc. application filed under Section 23 of the Act of 2005 regarding marriage and domestic relations between the parties.

7. The revision petition stands disposed of accordingly.