

(2018) 10 P&H CK 0009

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous (M) No.42360 Of 2017 (O&M)

Preeti

APPELLANT

Vs

Rani and others

RESPONDENT

Date of Decision: Oct. 1, 2018

Acts Referred:

- Code of Criminal Procedure, 1973 - Section 125, 407
- Protection of Women from Domestic Violence Act, 2005 - Section 12
- Indian Penal Code, 1860 - Section 120B, 328, 406, 498A, 506

Hon'ble Judges: Jaishree Thakur, J

Bench: Single Bench

Advocate: Vivek Goyal

Final Decision: Allowed

Judgement

1. This is a petition that has been filed under Section 407 of the Code of Criminal Procedure, 1973 for transfer of Complaint No. 204 of 2017 dated

25.9.2017 under Section 12 of the Domestic Violence Act pending in the Court of Rajinder Pal Singh, Judicial Magistrate Ist Class, Gurdaspur to

competent court at Panchkula.

2. In brief, the facts are that a marriage was solemnized between the petitioner and respondent No.1. However, a matrimonial dispute arose between

the parties, which led to the registration of the FIR No.1 dated 1.9.2015 under Sections 406, 498-A, 328, 506 and 120-B IPC at Women Police Station

Panchkula, against the husband and in-laws of the petitioner. During the pendency of the FIR, an application under the provisions of the Domestic

Violence Act as well as a petition Section 125 of the Code of Criminal Procedure was filed by the petitioner. During the pendency of the proceedings, the matter was compromised between the parties and they decided to live together. In view of the compromise between the parties, a petition for quashing of the FIR i.e. Criminal Misc. M 42337 of 2015 was filed in this Court and the same was allowed and the FIR was quashed, vide order dated 7.11.2016 (Annexure P/1).

3. It is contended that the petitioner herein went to reside with her husband, but thereafter their behaviour changed and she was again harassed and thrown out of the matrimonial home. Therefore, she was constrained to file a petition under Section 12 etc. of the Protection for Domestic Violence Act on 6.9.2017 against her husband and others. The husband of the petitioner, namely Raghu Nandan put in appearance on the date so summoned. It is contended that immediately thereafter i.e. within a period of 3 days of appearance, the mother-in-law i.e. mother of her husband filed an application under Section 12 of the of the Protection of Women from Domestic Violence Act against the petitioner and others at Gurdaspur, as a counter-blast to the petition filed by the petitioner under the Domestic Violence Act just to harass the petitioner herein. It is further contended that the petitioner has a minor child to look after and District Gurdaspur is about 300 kilometers from Panchkula and it is evident that the said petition is nothing but an attempt to harass the petitioner. It is difficult for the petitioner to travel for such a long distance along with her minor child. Learned counsel for the petitioner contends that since the petitioner has already invoked the provisions of the Domestic Violence Act and the petition is pending in Panchkula, where the petitioner is presently residing, therefore, it is prayed that the petition filed by the mother-in-law at Gurdaspur be transferred to Panchkula, so that both the petitions could be clubbed and heard together.

4. Notice of the petition was issued to the respondents for 6.4.2018. On 6.4.2018, the case was adjourned for 5.7.2018. On 5.7.2018 none had appeared on behalf of the respondents, though as per office report, respondents No. 1,6 5 had been duly served, respondents No. 2 and 3 were served through their daughter-in-law and respondent No.4 was served through his wife. Even on 26.9.2018, when the case was reserved, none had put in

appearance on behalf of the respondents.

5. I have heard learned counsel for the parties and perused the pleadings.

6. Admittedly, the marriage took place between the petitioner herein and Raghunandan Babbar which did not survive for a longer time and led to the

filing of an FIR. However, eventually the matter was compromised and the FIR was quashed on the basis the compromise arrived at between the

parties in Criminal Misc. M 42337 of 2015 decided on 7.11.2016. In terms of the compromise, the parties started living together but soon thereafter,

again matrimonial dispute arose and the petitioner was allegedly thrown out of the matrimonial home. Prima facie, it appears that the petition under the

Domestic Violence Act filed by the mother-in-law of the petitioner is nothing but a counter-blast to the petition filed by the petitioner under the

Domestic Violence Act at Panchkula. Apart from that, the distance between the Panchkula and Gurdaspur, where the mother-in-law has filed the

petition under the Domestic Violence Act against the petitioner, is about 300 kilometers, therefore, it would be difficult for the petitioner to travel such

a long distance along with her minor child. Furthermore, it would be in the fitness of things that both the cases filed under the provisions of the

Domestic Violence Act i.e. one filed by the petitioner and the another filed by her mother-in-law are clubbed and decided together.

7. For the reasons afore-stated, this petition is allowed, Complaint No. 204 of 2017 dated 25.9.2017 filed by respondent No.1â€"Rani, under Section 12

of the Domestic Violence Act pending in the Court of Rajinder Pal Singh, Judicial Magistrate Ist Class, Gurdaspur is transferred to the Sessions

Division, Panchkula.

8. The parties are directed to appear before the before the District & Sessions Judge, Panchkula, on 22.10.2018.