

Daljit Singh And Anr vs Gurpreet Kaur on 18 February, 2016

Author: Anita Chaudhry

Bench: Anita Chaudhry

Crl. Misc. No.M-2747 of 2015 (O&M)

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Crl. Misc. No.M-2747 of 2015 (O&M)
Date of decision : 18.02.2016

Daljit Singh & Anr.

.....Petitioners

Versus

Gurpreet Kaur

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. Rohit Ahuja, Advocate
for the petitioners.

Mr. Rahul Jaswal, Advocate and
Mr. Rishav Jain, Advocate for
Mr. Vivek Thakur, Advocate
for the respondent.

ANITA CHAUDHRY, J. (ORAL)

The petitioners seek quashing of the order dated 02.09.2014, passed by the Additional Sessions Judge and the order dated 21.01.2014 (Annexure P-5), passed by the trial Court whereby their application had been dismissed. The facts which are relevant are as follows:-

Gurpreet Kaur had filed a complaint under Section 12 of the Domestic Violence Act against her husband and in-laws. The husband was settled abroad and had come to India for his marriage. He went back to Greece after the marriage. The complainant was left in India. An incident occurred on 06.02.2009 when the husband was here and the complainant was beaten by her husband and in-laws. A complaint was given to the SHO but the husband flew back to Greece. It was pleaded that she had a minor son and she was fending on her own. She also claimed maintenance. It was also pleaded that a petition under Section 125 Cr.P.C. had also been filed.

The petitioners are the in-laws. They had appeared before the Court and had filed an application (Annexure P-3) seeking dismissal of the complaint pleading that the complaint was time barred and the complaint should have been filed within a period of one year from the date of alleged incident of domestic violence. The complainant filed the reply and opposed the prayer. The trial Magistrate heard the arguments and dismissed the application on 21.01.2014. Against that order, the petitioners filed an appeal which was dismissed on 02.09.2014. Against that order, this revision has been filed and the same pleas have been taken that the petition was barred by time and the last incident mentioned was 23.08.2009. The argument was that the complaint had to be filed within one year from the date of incident. Reliance was placed upon V.D. Bhanot Vs. Savita Bhanot 2012 AIR (SC) (Cri) 685 and Inderjit Singh Grewal Vs. State of Punjab and another 2011 AIR (SC) (Cri) 2386.

The submission of the other side was that the Apex Court in Saraswathy Vs. Babu 2014 AIR (SC) 857, had gone to the extent of holding that the conduct of the parties prior to the coming into force of the Act can also be taken into consideration while passing an order and therefore, the complaint was maintainable and there was no limitation in a case of subsisting relationship of husband and wife. Reference was also made to Geeta Kapoor and another Vs. State of Haryana and another 2014(1) RCR (Criminal) 942.

Gurpreet Kaur was married to Nishan Singh. This fact is not disputed. The husband is abroad. The complaint was filed against the husband and in-laws. The complainant had made allegations relating to an incident of 2009. She is claiming monitory reliefs including maintenance. The husband is also a party. The dismissal of the complaint was sought on the ground of limitation. The Apex Court in V.D. Bhanot's case (supra), while answering the question as to whether the petition under the Domestic Violence Act was maintainable by a woman who was subject to domestic violence prior to the enforcement of the Act and where the wife was not living with the husband. After referring to the statement of objects and reasons, it was observed that the conduct of the parties even prior to the coming into force of the Act can be taken into consideration while passing any order under the Act.

In Geeta Kapoor's case (supra), it was observed that the complaint under the Domestic Violence Act can be filed at any time in case of a subsisting relationship of husband and wife and there is no limitation.

The intention of the law framers was to bring a separate legislation for protection of woman from domestic violence.

In Geeta Kapoor's case, the co-ordinate Bench had distinguished Inderjit Singh Grewal's case relied upon by the petitioner as violence.

The case law Inderjit Singh Grewal's case (supra) is not applicable to the case in hand. In the cited case there was a decree of divorce between the parties. The relationship came to an end between the parties in the cited case law. The correct view is that in case of decree of divorce, the limitation to file proceedings is only a year. But in this case still the relationship of husband and wife is alive. The object of the D.V.Act, is to provide effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family. So, it is held that in case of subsisting relationship of husband and wife, there is no limitation. Meaning thereby that the complaint under the D.V.Act, can be filed at any time as the physical and mental harassment within the family is a continuing offence.

Keeping in view the above discussion, the petition fails and is dismissed. Parties are directed to appear before the Court below on 14.03.2016.

18.02.2016
sunil

(ANITA CHAUDHRY)
JUDGE