

SHYAMLAL DEVDA AND OTHERS

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v.

PARIMALA

(Criminal Appeal No. 141 of 2020)

JANUARY 22, 2020

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**[R. BANUMATHI, A. S. BOPANNA AND
HRISHIKESH ROY, JJ.]**

Protection of Women from Domestic Violence Act, 2005 – ss.27(1)(a) & 18-20 – Marriage of respondent-wife and appellant no.14-husband was solemnized in Rajasthan – Respondent was residing with appellant no.14 and his parents (appellant nos.1 & 2) in her matrimonial house at Chennai – Appellant no.14 and respondent went to Bengaluru to attend respondent’s sister’s wedding – Respondent thereafter refused to join her matrimonial home and inter alia sought protection order u/s.18, 2005 Act against appellant nos.1, 2, 14 and their other relatives (appellant nos.3-13) who were in Chennai, Rajasthan and Gujarat – Magistrate, Bengaluru issued notice to the appellants – Appellants sought quashing of the proceedings – Dismissed – On appeal, held: When acts of domestic violence are alleged, before issuing notice, the court has to be prima facie satisfied that there have been instances of domestic violence – Admittedly, the matrimonial house was at Chennai – Respondent made allegations of domestic violence against fourteen appellants– Against appellant nos.1, 2 & 14, the averments of alleged domestic violence were that they took away the jewellery of the respondent gifted by her father during marriage and the alleged acts of harassment to the respondent – There are no specific allegations as to how other relatives of appellant no.14 caused the acts of domestic violence – High Court not right in saying that there was prima facie case against appellant nos.3-13 – Criminal case of domestic violence against them is quashed – Further, petition under the 2005 Act can be filed in a court where the “person aggrieved” permanently or temporarily resides or carries on business or is employed – Respondent is residing with her parents within the territorial limits of Metropolitan Magistrate Court, Bengaluru and

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A *in view of s.27(1)(a), the said Court has jurisdiction to take cognizance of the offence – Criminal case of domestic violence against appellants nos.1, 2 & 14 be proceeded with and disposed of in accordance with law – Hindu Marriage Act, 1955 – s.9 – Code of Criminal Procedure, 1973 – s.482.*

B **Partly allowing the appeal, the Court**

HELD: Section 18 of the Domestic Violence Act, 2005 relates to protection order. In terms of Section 18 of the Act, intention of the legislature is to provide more protection to woman. Section 20 of the Act empowers the court to order for monetary relief to the “aggrieved party”. When acts of domestic violence is alleged, before issuing notice, the court has to be prima facie satisfied that there have been instances of domestic violence. The respondent made allegations of domestic violence against fourteen appellants. Appellant No.14 is the husband and appellants No.1 and 2 are the parents-in-law of the respondent.

D **All other appellants are relatives of parents-in-law of the respondent. Admittedly, the matrimonial house has been at Chennai. Insofar as appellant No.14-husband of the respondent and appellants No.1 and 2-Parents-in-law, there are averments of alleging domestic violence alleging that they have taken away the jewellery of the respondent gifted to her by her father during marriage and the alleged acts of harassment to the respondent. There are no specific allegations as to how other relatives of appellant No.14 have caused the acts of domestic violence. It is also not known as to how other relatives who are residents of Gujarat and Rajasthan can be held responsible for award of monetary relief to the respondent. The High Court was not right in saying that there was prima facie case against the other appellants No.3 to 13. The criminal case of domestic violence against them is quashed. The petition under the Domestic Violence Act can be filed in a court where the “person aggrieved”**

F **permanently or temporarily resides or carries on business or is employed. In the present case, the respondent is residing with her parents within the territorial limits of Metropolitan Magistrate Court, Bengaluru. In view of Section 27(1)(a) of the Act, the Metropolitan Magistrate court, Bengaluru has the jurisdiction**

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to entertain the complaint and take cognizance of the offence. A
 There is no merit in the contention raising objection as to the
 jurisdiction of the Metropolitan Magistrate Court at Bengaluru.
 CrI. Misc. No.53 of 2015 filed against the appellants No.3 to 13
 is quashed. The VI Additional Metropolitan Magistrate at
 Bengaluru shall proceed with CrI. Misc. No.53 of 2015 against B
 appellants No.1, 2 and 14 and dispose the same in accordance
 with law. It is made clear that no opinion has been expressed on
 the merits of the matter. [Paras 8, 9 and 11] [129-D-H; 130-A-B;
 G-H; 131-A-B]

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal C
 No. 141 of 2020.

From the Judgment and Order dated 18.02.2019 of the High
 Court of Karnataka at Bengaluru in Criminal Petition No. 5959 of 2015.

Balaji Srinivasan, Ms. Lakshmi R. Rao, Ms. Pallavi Sen Gupta,
 Advs. for the Appellants. D

Ms. Nidhi, Vaisal Dathan, Advs. for the Respondent.

The Judgment of the Court was delivered by

R. BANUMATHI, J. 1. Leave granted.

2. This appeal arises out of the impugned judgment dated E
 18.02.2019 passed by the High Court of Karnataka at Bengaluru in
 Criminal Petition No.5959 of 2015 in and by which the High Court has
 dismissed the petition filed by the appellants stating that the Metropolitan
 Magistrate, Bengaluru has the jurisdiction to entertain the complaint filed
 by the respondent under Sections 18, 19 and 20 of the Protection of
 Women from Domestic Violence Act, 2005 (For short “Domestic Violence F
 Act”).

3. Brief facts which led to filing of this appeal are as follows:-

The marriage of respondent-wife and appellant No.14-Manoj
 Kumar was solemnized on 01.05.2006, as per Hindu rites and customs
 in Rajasthan. After marriage, the respondent was residing with appellant G
 No.14 in her matrimonial house at Chennai along with appellants No.1
 and 2 who are the parents of the appellant No.14. In April, 2014, appellant
 No.14 and respondent-wife went to Bengaluru from Chennai to attend
 respondent’s sister wedding. After the said wedding, the respondent
 expressed her desire to remain at Bengaluru for some time; which was H

- A acceded to by appellant No.14 with the understanding that the respondent would stay in her parent's house for short time. According to the appellants, the respondent thereafter refused to join her matrimonial home or cohabit with appellant No.14. Appellant No.14 filed O.P. No.11355 of 2015 under Section 9 of the Hindu Marriage Act for restitution of conjugal rights before the Family Court, Chennai. Thereafter, respondent B claiming herself to be a victim of domestic violence seeking protection order under Section 18 and residence order under Section 19 and monetary relief under Section 20 of the Act filed Crl. Misc. No.53 of 2015 before the Court of Metropolitan Magistrate at Bengaluru against her husband- appellant No.14, her in-laws-appellant Nos.1 and 2 and C other relatives of her husband who are in Chennai, Rajasthan and also in Gujarat. The learned Magistrate, Bengaluru vide order dated 16.04.2015 issued notice to the appellants by holding that the Court has the jurisdiction to entertain the petition filed by the respondent under Section 27 of the Domestic Violence Act.
- D 4. Aggrieved by the issuance of summons in Crl. Misc. No.53 of 2015, the appellants have filed a petition under Section 482 Cr.P.C. before the High Court seeking quashing of the entire proceedings in Crl. Misc. No.53 of 2015 on the file of the MMTC-VI at Bengaluru. Vide the impugned judgment, the High Court dismissed the petition by holding that in the complaint filed by the respondent, various instances of domestic E violence at different places viz. Chennai, Rajasthan and Gujarat are narrated by the respondent and therefore, the complaint filed in Bengaluru is maintainable under Section 27 of the Domestic Violence Act. Being aggrieved, the appellants have preferred this appeal.
- F 5. Mr. Balaji Srinivasan, learned counsel appearing for the appellants contended that neither the marriage of the parties was solemnized at Bengaluru nor the matrimonial house was at Bengaluru and therefore, the Magistrate Court at Bengaluru has no jurisdiction to entertain the petition filed under the Domestic Violence Act. Learned counsel submitted that vague allegations have been levelled against the G family members of the husband-appellant No.14 which are not at all substantiated. Learned counsel further submitted that with a view to harass the family members of her husband, the respondent has arraigned all the family members of her husband including those who are residents in the State of Rajasthan, Gujarat and other relatives in Chennai and the complaint is an abuse of the process of the Court.
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6. Ms. Nidhi, learned counsel appearing for the respondent has contended that by virtue of Section 27 of the Domestic Violence Act, the place where the complainant permanently or temporarily resides or carries on business, Court has the jurisdiction to entertain the complaint and grant protection order and other orders under the Domestic Violence Act. It was submitted that the respondent is currently residing within the territorial limit of the Metropolitan Magistrate of Bengaluru City and that the High Court rightly held that the Metropolitan Magistrate at Bengaluru has the jurisdiction to entertain the complaint. Taking us through the averments in the complaint, learned counsel for the respondent has submitted that there are several instances of domestic violence against the husband-appellant No.14 and other relatives particularly, appellant Nos.1 and 2-father-in-law and mother-in-law who have been harassing the respondent who have taken away respondent's jewellery and insisting upon her to buy properties. The learned counsel submitted that the High Court rightly refused to quash the order of taking cognizance.

7. We have carefully considered the contentions and perused the impugned judgment and other materials on record.

8. Section 18 of the Domestic Violence Act relates to protection order. In terms of Section 18 of the Act, intention of the legislature is to provide more protection to woman. Section 20 of the Act empowers the court to order for monetary relief to the "aggrieved party". When acts of domestic violence is alleged, before issuing notice, the court has to be *prima facie* satisfied that there have been instances of domestic violence.

9. In the present case, the respondent has made allegations of domestic violence against fourteen appellants. Appellant No.14 is the husband and appellants No.1 and 2 are the parents-in-law of the respondent. All other appellants are relatives of parents-in-law of the respondent. Appellants No.3, 5, 9, 11 and 12 are the brothers of father-in-law of the respondent. Appellants No.4, 6 and 10 are the wives of appellants No.3, 5 and 9 respectively. Appellants No.7 and 8 are the parents of appellant No.1. Appellants No.1 to 6 and 14 are residents of Chennai. Appellants No.7 to 10 are the residents of State of Rajasthan and appellants No.11 to 13 are the residents of State of Gujarat. Admittedly, the matrimonial house of the respondent and appellant No.1 has been at Chennai. Insofar as appellant No.14-husband of the respondent and appellants No.1 and 2-Parents-in-law, there are averments of alleging domestic violence alleging that they have taken

- A away the jewellery of the respondent gifted to her by her father during marriage and the alleged acts of harassment to the respondent. There are no specific allegations as to how other relatives of appellant No.14 have caused the acts of domestic violence. It is also not known as to how other relatives who are residents of Gujarat and Rajasthan can be held responsible for award of monetary relief to the respondent. The
- B High Court was not right in saying that there was *prima facie* case against the other appellants No.3 to 13. Since there are no specific allegations against appellants No.3 to 13, the criminal case of domestic violence against them cannot be continued and is liable to be quashed.

- C 10. Insofar as the jurisdiction of the Bengaluru Court, as pointed out by the High Court, Section 27 of the Protection of Women from Domestic Violence Act, 2005 covers the situation. Section 27 of the Act reads as under:-

27. Jurisdiction –

- D (1) The court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which –
- (a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or
- E (b) the respondent resides or carries on business or is employed; or
- (c) the cause of action has arisen, shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act
- F (2) Any order made under this Act shall be enforceable throughout India.

- G A plain reading of the above provision makes it clear that the petition under the Domestic Violence Act can be filed in a court where the “person aggrieved” permanently or temporarily resides or carries on business or is employed. In the present case, the respondent is residing with her parents within the territorial limits of Metropolitan Magistrate Court, Bengaluru. In view of Section 27(1)(a) of the Act, the Metropolitan Magistrate court, Bengaluru has the jurisdiction to entertain the complaint and take cognizance of the offence. There is no merit in the contention

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raising objection as to the jurisdiction of the Metropolitan Magistrate Court at Bengaluru. A

11. In the result, Crl. Misc. No.53 of 2015 filed against the appellants No.3 to 13 is quashed and this appeal is partly allowed. The learned VI Additional Metropolitan Magistrate at Bengaluru shall proceed with Crl. Misc. No.53 of 2015 against appellants No.1, 2 and 14 and dispose the same in accordance with law. We make it clear that we have not expressed any opinion on the merits of the matter. B

Divya Pandey

Appeal partly allowed.