

Court No. - 12

Case :- APPLICATION U/S 482 No. - 2697 of 2025

Applicant :- Smt. Garima And 5 Others

Opposite Party :- State Of U.P. Thru. Secy. Home Deptt. Lko.
And Another

Counsel for Applicant :- Sushilendra Kumar Sahu

Counsel for Opposite Party :- G.A.

Hon'ble Alok Mathur,J.

1. Heard Shri Sushildendra Kumar Sahu, learned counsel for applicants, learned A.G.A. for the State and perused the material available on record.

2. By means of the present application under Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (482 Cr.P.C.), the applicants have challenged the order dated 13.09.2024 passed by learned Additional Chief Judicial Magistrate, Lucknow in Complaint Case No. 5786 of 2024 whereby summoning the applicants under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (Smt. Sudha Mishra Vs. Smt. Garima and others).

3. It has been submitted by learned counsel for applicants that a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 was made by opposite party no. 2 before the learned Additional Chief Judicial Magistrate, Lucknow alleging therein that her son is married to applicant no. 1 - Smt. Garima while opposite party no. 2 to 6 in the said application are the relatives of her daughter-in-law, namely, Smt. Garima. It was alleged that after marriage of her son with applicant no. 1, she regularly created pressure upon her son to start living along with her parents in Raebareli and when the son of opposite party no. 2 refused the request of his wife,

applicant no. 1 started misbehaving with her son as well as the complainant and her family members. She further started abusing the complainant and threatening her with false cases.

4. It is stated in the complaint that her misbehaviour started getting from bad to worst with the complainant and on 30.06.2024 opposite party no. 2 came along with her other family members and forcibly took away the jewellery and certain amount of cash. The trial court duly considered the complaint and by means of order dated 13.09.2024 has issued notices to the applicants, which has been assailed in the present application under Section 482 Cr.P.C.

5. Learned counsel for applicants has submitted that the entire proceedings have been initiated with malafide intention against the applicants, inasmuch as the applicants in-fact has lodged an FIR under Sections 498-A, 323, 504 & 506 IPC and Section 3/4 of the Dowry Prohibition Act against the opposite party no. 2 and only as a measure of counter blast, the present proceedings under Section 12 of the Protection of Women from Domestic Violence Act, 2005 have been initiated.

6. It is further submitted that an application under Section 125 of the Cr.P.C., has been moved by applicant no. 1 against the complainant and her family members, which is also pending consideration.

7. Considering the arguments of learned counsel for applicants as well as material available on record, it is noticed that clear allegations have been levelled pertaining to the domestic violence by the complainant in the complaint before the learned Additional Chief Judicial Magistrate.

8. It has further been stated that opposite party no. 2 is continuously mentally and physically harassing complainant and also forcibly taken away the entire goods and money from

her possession on 30.06.2024. Accordingly, this Court finds that clear satisfaction had been arrived by the trial court at the stage of issuing process of summons to the applicant. The only arguments raised by the applicants are the defence, which can be considered by the trial court at the appropriate stage. At the stage of issuing summons, the trial court has mandated to consider the material available on record, which is in form of complaint.

9. A perusal of the complaint clearly discloses prima facie case to be proceeded under Section 12 of the Protection of Women from Domestic Violence Act, 2005. This Court further does not find any merit in the arguments raised by the applicants that her mother-in-law is disable from filing an application under Section 12 of the Protection of Women from Domestic Violence Act, 2005. A perusal of Section 12 of the said Act indicates that the application can be filed by any person, who has been described as "aggrieved person". Though the definition of aggrieved person has not been given in the said Act but certainly the definition of aggrieved person cannot be curtailed or narrow down in terms of what has been argued by learned counsel for applicants. In case, mother-in-law is harassed or physically or mentally tortured by the daughter-in-law or any other member of the family, certainly she could be brought within the fold of aggrieved person and would have a right to maintain the application under Section 12 of the Protection of Women from Domestic Violence Act, 2005.

10. This Court further finds that the Act of 2005 is a beneficial legislation for women, who are subjected to domestic violence and applicability of the said Act cannot be curtailed but has to be liberally interpreted.

11. In order to deal with the issue regarding maintainability of

the application under the DV Act, it is necessary to discern the relevant provisions of the statute contained in the following Sections:

"2. Definitions. In this Act, unless the context otherwise requires, -

(a) "aggrieved person" means any woman who is, or has been, in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;

(f) "domestic relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family;

(g) "respondent" means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act: Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner.

(s) "shared household" means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household."

12. On conjoint reading of the above sections, it can be inferred that the aggrieved person can be any woman who has lived in a domestic relationship in a shared household with the respondent. Here, in this case, the mother in law is the aggrieved woman who has shared household and lived together with the daughter in law in a domestic relationship as a joint family and therefore has a right to file application under Sec. 12 of the Act of 2005. Accordingly, the argument of learned counsel for applicants that the application cannot be preferred by mother-in-law is bereft of merits accordingly, rejected.

13. For the reasons as aforesaid, this Court does not find any

interference in the impugned order dated 13.09.2024 passed by learned Additional Chief Judicial Magistrate, Lucknow in Complaint Case No. 5786 of 2024. Therefore the application under Section 482 Cr.P.C. is dismissed.

(Alok Mathur, J.)

Order Date :- 4.4.2025

Virendra