IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. M-35333 of 2016 (O&M)
Date of Decision: April 20, 2018

Renu Beniwal and others

...Petitioners

Versus

Sarika Nehra Beniwal

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Aman Bansal, Advocate
for the petitioners.

Mr. Sandeep Kotla, Advocate
for the respondent.

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JAISHREE THAKUR, J.

1. The instant petition has been filed under Section 482 of Cr.P.C. invoking the inherent jurisdiction of the High Court to quash the Complaint No. DV/0000004/2014 dated 27.03.2014 pending before the Additional Chief Judicial Magistrate, Gurugram along with the impugned orders dated 02.06.2015 passed by the Additional Sessions Judge, Gurugram as well as orders dated 27.03.2014, 01.12.2014 and 30.08.2016 passed by the Additional Chief Judicial Magistrate, Gurgaon.

2. In brief, the facts as stated in the complaint are, that complainant (hereinafter called respondent) solemnized her marriage with Vineet Beniwal petitioner No. 3, and son of petitioner No. 1 and petitioner

No. 2 as per Hindu rites and ceremonies on 14.02.2004. Soon after the marriage, the respondent and petitioner No. 3 left for the United States of America, as he was employed in Houston, Texas. At the time of marriage a sum of ₹ 5 lakhs in cash was given , which amount was got converted in US dollars by him and thereafter utilized towards purchase of a joint house in Houston. While at Houston she became aware that her husband was an alcoholic and suffering from psychological disorder. It is alleged that the respondent was subjected to physical assault and economic deprivation as well, since all her earnings were utilized by her husband petitioner no 3. While in USA the respondent gave birth to a daughter namely Rianna on 28.10.2009. In December 2012, the respondent along with petitioner No. 3 and their daughter came to India. On the insistence of the respondent, petitioner No. 3 consulted a psychiatrist at Fortis Hospital Gurgaon, who came to the conclusion that petitioner No. 3 was probably suffering from '*bipolar disorder'*. Petitioner No. 3 refused any treatment and left back for United States of America, leaving the respondent and their daughter behind. The respondent thereafter resided with her parents in Gurugram. Petitioner No. 2, the father of Vineet Beniwal, left for USA in August 2013 and on returning informed the respondent that petitioner No. 3 had decided to shift back to India permanently and would reside along with the respondent and the minor daughter in India. Petitioner No. 3 asked for a power of attorney to be sent so that properties could be disposed of. The respondent duly sent the power of attorney and the joint properties of the respondent and petitioner No. 1 were sold for approximately $ 200,000/- amounting to ₹ one crore. Petitioner No. 3 came back to India and thereafter respondent, he

along with minor daughter jointly resided at Flat No. 701, Tower 3 Uniworld Garden Sohna, Road Gurgaon. It is only thereafter that the respondent realized that there was no change in the behavior of her husband petitioner No. 3 and that he had fraudulently got her to send a power of attorney to sell the joint properties as he had misappropriated the entire sale proceeds. It is also alleged that in the month of March 2014, the petitioners No 1 and 3 started to pressurize the respondent to give a divorce. Thereafter, the respondent filed a Domestic Violence case seeking relief under Section 12,17,18,19,20,22 of the Protection Of Women From Domestic Violence Act 2005 (DV Act 2005 for short). The petitioners no 1 and 2 appeared, whereas no one put in an appearance for petitioner no 3, the husband Vineet Beniwal. By an order dated 1.12.2014 the Civil Judge restrained the petitioners from forcibly dispossessing the respondent from premises described as flat No. 701, Tower 3 Uniworld Garden Sohna, Road Gurgaon.

3. Aggrieved against the said order an appeal was filed under Section 29 of the DV Act of 2005 which was dismissed on 2.6.2015. Aggrieved against the said order the petitioners preferred a Criminal **Miscellaneous M- 24095 of 2015** ***Renu Beniwal and another versus Sarika Nehra Beniwal***. During the pendency of the Criminal Miscellaneous Petition in the High Court, the marital dispute was compromised between the parties at the District Court at Harris County Texas, and the mediated settlement agreement was entered into between the respondent Sarika Nehra Beniwal and Vineet Beniwal. A decree of divorce was issued on 25.9.2015 and thereafter proceedings in the High Court were dismissed as withdrawn

on 03.12.2015 with liberty to avail other remedies in accordance with law. Thereafter, the petitioners preferred an application before the Civil Judge seeking dismissal of the complaint on the ground that decree of divorce has been issued, but the application was dismissed. Aggrieved against the dismissal, the instant petition for quashing of the complaint and proceedings thereunder has been preferred by the petitioners.

4. Mr. Aman Bansal, learned counsel appearing on behalf of the petitioners submits; that the proceedings under the DV Act pending before Addl. Chief Judicial Magistrate, Gurugram is nothing, but an abuse of process of law, insofar a decree of divorce has already been obtained between the respondent and petitioner No.3-Vineet Beniwal; that in terms of the divorce, there has been a division of the property and the complainant-respondent is in possession of a commercial unit F-27, First Floor BAANI Square, Sector 50, Gurugram along with Hyundai Verna car, clothing, jewellery etc.; that petitioners No.1 and 2 did not have any domestic relationship, at any point of time, with the respondent nor are they in a shared household; that in terms of the settlement arrived at in divorce proceedings, petitioner No.1 has executed a memorandum of gift of half share in a commercial space in F-27, First Floor BAANI Square, Sector 50, Gurugram on 19.07.2016, however, the same has not been accepted by the complainant-respondent; and that the complainant-respondent has since re-married one Rahul Gupta in December, 2015.

5. Per contra, Mr. Sandeep Kotla, learned counsel appearing on behalf of the complainant-respondent submits that the respondent has been subjected to domestic violence at the hands of petitioner No.3 and therefore,

the proceedings under the DV Act are sustainable. It is also argued that there has been misappropriation of the funds, since properties were fraudulently sold in America. Moreover, petitioner No.3 is not appearing in the courts below and has been proceeded against ex parte.

6. I have heard learned counsel for the parties, apart from perusing the record.

7. Primarily four questions would arise for determination of this under:

(i) Whether the instant petition is maintainable, in view of the fact that the petitioners had initially approached this court seeking to challenge the orders passed by the Appellate Court in Criminal Miscellaneous No.M-24095 of 2015 and the same proceedings had been dismissed as withdrawn?

(ii) Whether the proceedings under the DV Act are maintainable against petitioners No.1 and 2, since it is admitted that they did not reside together with the respondent?

(iii) Whether the complainant-respondent would be entitled to reside in Flat No. 701, Tower 3 Uniworld Garden Sohna, Road Gurgaon, which is not belonging to her husband-petitioner No.3?

(iv) Whether the proceedings under the DV Act initiated prior in time to the decree of divorce would still be maintainable against petitioner No.3, even though the complainant-respondent has subsequently re-married?

8. The first question, which this court is required to address is

whether the instant petition is maintainable, in view of the fact that the petitioners had initially approached this court seeking to challenge the orders passed by the Appellate Court in Criminal Miscellaneous No.M-24095 of 2015 and the same proceedings had been dismissed as withdrawn? Admittedly, petitioners No.1 and 2 had been summoned to appear along with petitioner No.3 in proceedings under the DV Act and they had sought to challenge the orders dated 27.03.2014, by which order they had been summoned to appear before the Addl. Chief Judicial Magistrate, Gurugram in proceedings under the DV Act as well as order dated 01.12.2014, by which they had been restrained from dispossessing the complainant-respondent from residence described as Flat No. 701, Tower 3 Uniworld Garden Sohna, Road Gurugram. Appeal before the Additional Sessions Judge, Gurugram was dismissed on 02.06.2015. Thereafter, petitioners No.1 and 2 preferred a Criminal Miscellaneous No.M-24095 of 2015 before this High Court in case titled as "**Renu Beniwal and another vs. Sarika Nehra Beniwal"** which was dismissed as withdrawn with liberty to avail other remedies, in accordance with law. The petitioners sought to withdraw the said criminal miscellaneous petition, since a decree of divorce had come into existence in the meantime on 19.10.2015. After withdrawing the said criminal miscellaneous petition, petitioners No.1 and 2 moved an application for dismissing the complaint, on the ground that all the matters between complainant-respondent and petitioner No.3-Vineet Beniwal had been settled and properties both immovable and movable in USA as well as in India stood distributed between themselves. This application for dismissal of the complaint stood rejected by an order dated 30.08.2016,

which led to the filing of the instant criminal miscellaneous petition.

9. The objection so raised that the instant petition would not be maintainable on account of the fact that petitioners No.1 and 2 had already approached this court earlier and had got their matter dismissed as withdrawn, is an argument which is not sustainable. Petitioners No.1 and 2 in the earlier miscellaneous petition had challenged the complaint as well as orders dated 01.12.2014, 27.03.2014 and 02.06.2015 whereas, in the instant petition by invoking the inherent powers of the High Court under section 482 Cr.P.C , they are seeking to challenge the complaint as well as orders dated 27.03.2017, 01.12.2014 and 30.08.2016 on the ground that a decree of divorce has already been granted to petitioner No.3 and complainant-respondent. The court has inherent powers under Section 482 Cr.P.C. which can be exercised when it is found that the allegations are baseless or when in a given circumstances, continuation of the proceedings would tantamount to an abuse of process of law. In the case of **State of Haryana and others vs. Bhajan Lal and others, 1992 Supreme Court Cases (Cri) 426,** the Apex Court has reiterated the principle that the court can exercise its inherent jurisdiction of quashing a criminal proceeding only when the allegations made in the FIR/complaint do not disclose the commission of any offence and make out a case against the accused. In a latest pronouncement in the case of **Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and others vs. State of Gujarat and another, (2017) 9 Supreme Court Cases 641,** while discussing the various decisions of the Apex Court, the broad principles which emerge from the precedents on the subject, have been summarized as follows :

"*(i) Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;*

(ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

(iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

(iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

(v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

(vi) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the

nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

(vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

(viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

(ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

(x) There is yet an exception to the principle set out in propositions (viii) and

(ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained

> *of upon the financial or economic system will weigh in the balance."*

This High Court too in **Jasvir Kaur and another vs. Manpreet Kaur**, CRM-M-29792 of 2011, decided on 01.04.2015 and **Amit Aggarwal and others vs. Sanjay Aggarwal and others**, CRM-M-36736 of 2014, decided on 31.05.2016, has allowed the petitions under Section 482 Cr.P.C. and quashed the complaints filed under the DV Act, holding them to be an abuse of process of law. Similarly, in the instant case, this court would have the jurisdiction to entertain the petition and quash the complaint under the DV Act, in case, it transpires that the said complaint is nothing, but an abuse of process of law. The petitioners despite having got Criminal Miscellaneous No.M-24095 of 2015 dismissed as withdrawn to seek appropriate remedy, chose to approach the trial court with an application for dismissal of the case on the grounds that a decree of divorce had been issued in USA, which decree has still not been challenged by way of a suit to have it declared null and void. This application stood dismissed giving the petitioners a fresh cause of action to approach this court by way of invoking inherent powers under section 482 Cr.P.C. As such, this question is answered against the respondent, holding that this petition is maintainable.

10. The second question posed is whether the proceedings under the DV Act are maintainable against petitioners No.1 and 2, since it is admitted that they did not reside together with the respondent?

11. The Protection of Women from Domestic Violence Act came to be enacted in the year 2005 when a need was felt that adequate protections

were not being given to women, despite special provisions as provided under Section 498-A of Indian Penal Code. The legislature was of the opinion that there is abuse in a domestic relationship, which might be on account of dowry or otherwise and women were to be afforded protection in that relationship. The term 'abuse' was given a wide connotation, which could be sexual abuse, verbal and emotional abuse and economic abuse, besides the physical abuse. Section 2(s) of the DV Act defines the term "**shared household**" as under;-

> " ***'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. Section 2 (f) of the DV Act, defines the terms "**domestic relationship"** as under;

> *"**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"*

13. Section 17 of the DV Act provides for right to reside in a shared household, which reads as under;-

> ***17. Right to reside in a shared household-***
>
> "*1. Notwithstanding anything contained in any other law for the time being in force, every woman in a domestic relationship shall have the right to reside in the shared household, whether or not she has any right, title or beneficial interest in the same.*
>
> *2. The aggrieved person shall not be evicted or excluded from the shared household or any part of it by the respondent save in accordance with the procedure established by law."*

14. Further, Section 19 of the DV Act states as under;

> "***19. Residence orders.—***
>
> *1. While disposing of an application under sub-section (1) of section 12, the Magistrate may, on being satisfied that domestic violence has taken place, pass a residence order—*
>
> *a. restraining the respondent from dispossessing or in any other manner disturbing the possession of the aggrieved person from the shared household, whether or not the respondent has a legal or equitable interest in the shared household;*
>
> *b. directing the respondent to remove himself from the shared household;*
>
> *c. restraining the respondent or any of his relatives from entering any portion of the shared household in which the aggrieved person resides;*
>
> *d. restraining the respondent from alienating or disposing of the shared household or encumbering the same;*

> *e. restraining the respondent from renouncing his rights in the shared household except with the leave of the Magistrate; or*
>
> *f. directing the respondent to secure same level of alternate accommodation for the aggrieved person as enjoyed by her in the shared household or to pay rent for the same, if the circumstances so require:..”*

15. In the instant case, the respondent in order to maintain a complaint against petitioners No.1 and 2, has to establish that she was in a domestic relationship with petitioners No.1 and 2. As per her own pleadings, the respondent after her marriage resided with her husband Vineet Beniwal, petitioner No.3 herein, in America . She came back to India and stayed with her parents in Gurugram and thereafter in 2013 started residing together with her husband and daughter in Flat No. 701, Tower 3 Uniworld Garden Sohna, Road Gurugram. A perusal of the complaint filed by the respondent-respondent under the DV Act and the memo of parties itself reflects that petitioners No.1 and 2 are residents of Merrut, U.P. Para Nos.17, 25 and 29 of the complaint would be relevant in this regard, which read as under;

> “*17. That while residing in India, respondent No.1 refused to take up job and used to drink practically from morning to night. Respondent No.2 and 3 who otherwise lived in Merrut, used to frequently visit Gurgaon and instead of making their son i.e. respondent No.1 understand used to ask the applicant to deal with the situation on her own.*
>
> *25. That the applicant is living alone with her daughter Rianna at Gurgaon and knowing that temperament and behavior of respondent No.1 who is*

> *presently away to Merrut along with his parents, the applicant fears injury or physical harm to her and her daughter as he is capable of throwing the applicant and her daughter from the Balcony of the Flat or causing harm or injury by any other means.*
>
> *29. That though the applicant and her daughter are both U.S. Citizens but they are now permanently based in Gurgaon as Overseas Citizens of India and are currently since October, 2013 residing in Flat No.701, Tower-3, Uniworld Garden, Sohna Road, Gurgaon which is a joint property owned by respondents No.2 & 3."*

Therefore, from the above averments made in the complaint itself, it is abundantly clear that petitioners No.1 and 2 never resided or stayed together with respondent in a domestic relationship as defined in Section 2 (f) of the DV Act. Consequently, the complaint filed under the DV Act is clearly not maintainable against petitioners No.1 and 2 herein. As such, this question is answered in favour of petitioners No.1 and 2. Consequently, the complaint filed under the DV Act along with all the subsequent proceedings arising out of the same, including the impugned orders, are hereby quashed qua petitioners No.1 and 2.

16. The third question which requires consideration is whether the complainant-respondent would be entitled to reside in Flat No. 701, Tower 3 Uniworld Garden Sohna, Road Gurgaon, which does not belong to her husband-petitioner No.3? Admittedly, Flat No. 701, Tower 3 Uniworld Garden Sohna, Road Gurgaon in which the respondent- herein is residing, is not owned by her husband Vineet Beniwal, petitioner No.3. In fact, the said flat is owned by petitioner No.2-Dr. Surendra Pal Singh. It is also admitted

that respondent on return from America had started residing in the said flat belonging to petitioner No.2 along with her husband. After the break down of the marriage, petitioner No.3 left for America whereas, complainant-respondent continued to reside in the said house. The two Judge Bench of Supreme Court in **S.R. Batra and another vs. Taruna Batra (supra)** has dealt with the definition "**shared household**" in detail, besides the other provisions of the DV Act. A similar question arose whether a house, which exclusively belonged to mother-in-law of the respondent wherein she only lived with her husband for some time in the past after their marriage, comes within the ambit of "shared household" under Section 2(s) of the DV Act. The Supreme Court while allowing the appeal has held that '*The house in question belongs to the mother-in-law of the respondent. It does not belong to her husband. Hence the respondent cannot claim any right to live in that house. There is no such law in India, like the British Matrimonial Homes Act, 1967, and in any case, the rights which may be available under any law can only be as against the husband and not against the father-in-law or mother-in-law.'* Counsel for the respondent Smt. Taruna Batra had stated that the definition of shared household includes a household where the person aggrieved lives or at any stage had lived in a domestic relationship. He contended that since admittedly the respondent had lived in the property in question in the past, hence the said property is her shared household. The Supreme Court has further observed as under;-

> *"25. We cannot agree with this submission.*
> *26. If the aforesaid submission is accepted, then it will mean that wherever the husband and wife lived together in the past that property becomes a shared household. It*

is quite possible that the husband and wife may have lived together in dozens of places e.g. with the husband's father, husband's paternal grand parents, his maternal parents, uncles, aunts, brothers, sisters, nephews, nieces etc. If the interpretation canvassed by the learned counsel for the respondent is accepted, all these houses of the husband's relatives will be shared households and the wife can well insist in living in the all these houses of her husband's relatives merely because she had stayed with her husband for some time in those houses in the past. Such a view would lead to chaos and would be absurd.

27. It is well settled that any interpretation which leads to absurdity should not be accepted.

28. Learned counsel for the respondent Smt Taruna Batra has relied upon Section 19(1)(f) of the Act and claimed that she should be given an alternative accommodation. In our opinion, the claim for alternative accommodation can only be made against the husband and not against the husband's in-laws or other relatives.

29. As regards Section 17(1) of the Act, in our opinion the wife is only entitled to claim a right to residence in a shared household, and a `shared household' would only mean the house belonging to or taken on rent by the husband, or the house which belongs to the joint family of which the husband is a member. The property in question in the present case neither belongs to Amit Batra nor was it taken on rent by him nor is it a joint family property of which the husband Amit Batra is a member. It is the exclusive property of appellant No. 2, mother of Amit Batra. Hence it cannot be called a `shared household'.

> *30. No doubt, the definition of `shared household' in Section 2(s) of the Act is not very happily worded, and appears to be the result of clumsy drafting, but we have to give it an interpretation which is sensible and which does not lead to chaos in society.*
>
> *31. In view of the above, the appeal is allowed. The impugned judgment of the High Court is set aside and the order of Senior Civil Judge dismissing the injunction application of Smt. Taruna Batra is upheld. No costs."*

17. The ratio as laid down in ***S.R. Batra's case*** (supra) has subsequently been followed in a catena of judgments across various High Courts i.e. by the Kerala High Court in **Hashir vs. Shima, 2015(3) RCR (Criminal) 683**, by the Madras High Court in **V.P. Anuradha vs. S. Sugantha and others**, 2015(4) RCR (Criminal) 631, by Delhi High Court in **Harish Chand Tandon vs. Darpan Tandon and others, 2015(153)** DRJ 273.

18. In the case in hand, Flat No. 701, Tower 3 Uniworld Garden Sohna, Road Gurgaon in which the respondent herein is residing is owned by petitioner No.2-Dr. Surendra Pal Singh i.e. her father-in-law. Even otherwise, petitioner No.2-Dr. Surendra Pal Singh had already preferred a suit for ejectment of the respondent along with her husband, which suit has been decreed by the Civil Judge (Junior Division), Gurugram, by its judgment/decree dated 19.12.2017 and the defendants in the said suit (i.e. complainant-respondent herein) have been directed to hand over the vacant possession of the above-said property to the plaintiff (i.e. petitioner No.2 herein) within a period of three months from the date of passing of the

judgment, apart from arrears of rent for the period 10.04.2015 till 09.08.2015, total amounting to ` 5,44,000/- along with 6% interest from the date of filing, till its realization. In **S.R. Batra's case (supra)**, it has been clearly held by the Supreme Court that the wife is only entitled to claim a right to residence in a shared household and a shared household would mean the house belonging to or taken on rent by the husband, or the house which belongs to the joint family of which the husband is a member. Merely on account of existence of a domestic relationship between the wife and other relations of her husband, it would not make out a case for a wife to claim residence in a house, which exclusively belonged to the relatives of the husband.

19. In view of the foregoing discussion and ratio of law held by the Supreme Court in **S.R. Batra's case (supra)** the third question formed by this court is answered against the respondent-wife. The house in question, being exclusively belonging to petitioner No.2 (father-in-law), it cannot be called a "**shared household**" within the ambit of Section 2(s) of the DV Act. Therefore, the complainant-respondent has no right to reside in the said flat and the injunction order passed by the court restraining petitioner No.2 from dispossessing her is clearly unsustainable. Consequently, the impugned order dated 1.12.2014 passed by the trial court as well as order dated 02.06.2015 passed by the lower Appellate Court restraining the petitioners herein from dispossessing the complainant-respondent from the flat in question is set aside.

20. The last and forth question, which this court has to answer is whether the proceedings under the DV Act initiated prior in time to the

decree of divorce would still be maintainable against petitioner No.3, even though the complainant-respondent has subsequently re-married? The judgment as rendered in **Amit Aggarwals (supra)** case would be distinguishable on facts, since complaint under the DV Act was preferred after the decree of divorce had been granted, whereas in the instant case the divorce was subsequent to the filing of the complaint case. This court is of the considered view that since there are allegations leveled by the complainant-respondent that she was subject to domestic violence at the hands of petitioner No.3 and the same being a disputed question of fact can only be answered either way by the trial court, after evidence has been led by both the parties, even though the respondent has allegedly married subsequently. A submission has also been made that the terms of the divorce decree granted in the USA have not been complied with, in so far as there is no transfer of the flat. The complaint filed by the respondent cannot be quashed at this stage regarding the allegations against petitioner No 3. Therefore, this question is answered against petitioner No.3.

21 However, keeping in view the fact that the instant complaint is pending since 2014, the trial court is directed to conclude the proceedings as expeditiously as possible, preferably within a period of one year from the date of receipt of this order.

22. The petition in hand stands partly allowed accordingly.

(JAISHREE THAKUR)
JUDGE

April 20, 2018
vijay saini

Whether speaking/reasoned Yes/No
Whether reportable Yes/No