

**IN THE COURT OF RIFFI BHATTI, PCS,
JUDICIAL MAGISTRATE 1st Class, JAGRAON.
UID No. PB0563**

Case No	196
CIS No.	COMA-196-2021
Date of Institution	12.07.2021
Date of decision	06.08.2026
CNR No.	PBLDB1-002824-2021

1. Simarjeet Kaur wife of Sukhdev Singh @ Raju son of Sarwan Singh, resident of Near Kacha Darwaja, Pandtan Di Gali, Village Bhanohar, Tehsil and District Ludhiana and daughter of Gurmail Singh at present resident of village Talwara, Police Station Sidhwan Bet, Tehsil Jagraon, District Ludhiana.

2. Sehajdeep Singh son of Sukhdev Singh @ Raju through her mother and natural guardian Simarjeet Kaur aggrieved person No. 1.

.....Aggrieved persons/petitioners.

Versus

1. Sukhdev Singh @ Raju son of Sarwan Singh,

2. Sarwan Singh son of not known,

3. Kulwant Kaur wife of Sarwan Singh,

4. Baljinder Kaur daughter of Sarwan Singh, all residents of Near Kacha Darwaja, Pandtan Di Gali, Village Bhanohar, Tehsil and District Ludhiana.

.....Respondents.

Complaint/application under section 12 of the
Protection of Women from Domestic Violence Act,
2005 (43 of 2005), Police Station Sidhwan Bet.

Present: Sh. R.S. Mokha Advocate counsel for petitioners.
Respondents exparte vide order dated 04.10.2023.

ORDER

1. Succinctly, the facts of the present case as averred by the aggrieved persons/petitioners are that the petitioner No. 1 and respondent No. 1 got married on 29.03.2015 by way of Sikh Religious Rites through Anand Karaj Ceremony at village Talwara, Tehsil Jagraon, District Ludhiana. At the time of marriage, very precious clothes, dowry articles were given to the respondents according to their demand and choice. The father of the petitioner No. 1 had given a lot of dowry articles and clothes to the respondents. At the time of marriage double bed, Peti, Sofa Set, Tablet, Ceiling fan, TV, Dressing Table, Sewing Machine, Utensils, Diner Set were entrusted to the respondents as demanded by the respondents. At the time of marriage, a gold ring weighing 1 tola and wrist watch were given to the respondent No. 1, one gold ring weighing 1 tola was given to the respondent No. 2 and gold ear rings weighing 2 tola was given to the respondent No. 3 as per demand of the respondents. The respondent had also assured the father and relatives of the petitioner No. 1 that they would hand over the same to the petitioner No. 1 as and when petitioner No. 1 reached their house. It is further averred that the petitioner No. 1 and respondent lived and cohabited together as husband and wife upto 31.01.2021 at village Bhanohar, Tehsil and District Ludhiana. A male child namely Sehajdeep Singh i.e. petitioner No. 2 was born on

28.12.2015 out of the wedlock of the petitioner No. 1 and respondent No. 1, who at present under the care and custody of the petitioner No. 1. The interests of the petitioner No. 1 are not adverse to those of the minor. It is further averred that the respondents are very greedy person and soon after the marriage of the petitioner No. 1 with the respondent No. 1, they started taunting and maltreating the petitioner No. 1 and several times, the respondents beaten and maltreated the petitioner No. 1 even on the tiny matters. The respondents started demanding more dowry from the petitioner No. 1 and the petitioner No. 1 requested them that her parents are not in position to fulfill the illegal demand of the respondents. The respondents are mercilessly beat the petitioner no. 1 without any reason or cause. The respondents always used filthy language and abuses to the petitioner No. 1 on tinny matters. The respondents also used filthy language and abuse towards the parents of the petitioner No. 1. The respondents always used indecent words towards the petitioner No. 1 which cannot be mentioned in this petition and the language of the respondents towards the petitioner No. 1 is not tolerable. The petitioner No. 1 has given many opportunities to the respondent No 1 to reform his cruel behaviour, but the respondent no. 1 always failed to keep peace and harmony in the matrimonial life of the parties. It is further averred that the respondents always taunted the petitioner no. 1 for not fulfilling their demand of more dowry. Even some times,

respondents stopped to provide the food to the petitioners. The respondents maltreated the petitioner no. 1 mentally and physically. The petitioners were many times turned out the matrimonial house by the respondents, but every time, the petitioners came back in the matrimonial house with the sincere efforts of the parents of the petitioner No. 1. It is further averred that the petitioner No. 1 tolerated all the taunts and the respondents failed to maintain the petitioners for food, clothes and other amenities required for leading a life. Parents of the petitioner No. 1 many a times requested the respondents not to harass the petitioner No. 1, but the respondents did not change their behaviour and carried on to maltreat and beat the petitioner No. 1 and further again on 31.01.2021, they gave several beatings to the petitioner No. 1 and respondents carried out their illegal demand of more dowry from the petitioner No. 1. The respondents turned out the petitioners from the in-laws house in bare three clothes. All the dowry articles/istri dhan is in illegal possession of the respondents and the respondents are misappropriating the same. The respondents are also threatened the petitioner No. 1 that if she again come in the in-laws house without dowry then she would not be allowed to live in the in-laws family. The respondents are also threatened the petitioner No. 1 that she would be bear the cruel behaviour of the respondents. Since then, petitioner No. 1 along-with minor child is living in her parental house. The petitioner No. 1 along-with her

minor child is living in her parental house and have got no immoveable or immoveable property on her name and she is not know any art and craft. The petitioners have no bank balance. The petitioner No. 2 is school going child. Rather, the respondent no. 1 is owner of agriculture land and cultivating the agricultural land and doing the work of driving on private vehicle and having to sufficient sources of income. The respondent No. 1 is able bodied person and has sources of income and earns Rs. 30,000/- per month. Hence, the present complaint/application.

2. Upon notice of the complaint/application, respondents appeared through counsel and filed detailed written reply, wherein, it is averred that the complaint/application filed by the petitioners are not maintainable; the application/complaint has been filed with ulterior motive only to harass the answering respondents; the petitioners are concealed the true and material facts from the court; the petitioner No. 1 is estopped by her act and conduct from filing the present complaint; the petitioners have not come to the court with clean hands. The petitioners are not entitled for any relief from the court under the Domestic Violence Act as on dated 16.04.2021, the answering respondent No. 1 has filed petition under section 13 of HMA against the petitioner No. 1 for dissolution of the marriage by a decree of divorce before the Ld. Additional Principal Judge, Family Court, Ludhiana on the basis of cruelty and desertion. Thereafter, notice was issued to the petitioner No. 1 through RC in

the petition under section 13 of HMA, but the petitioner No. 1 did not appear and was proceeded against exparte vide order dated 24.11.2021. Thereafter, the petition under section 13 of HMA was decreed by the court of Sh. Mohit Bansal, Ld. Additional Principal Judge, Family Court, Ludhiana vide order dated 25.05.2022. Thereafter, on dated 26.07.2022, the respondent No. 1 has filed petition under section 25 of Guardian and Wards Act for the custody of the minor son namely Sehajdeep Singh i.e. petitioner No. 2 and the same is pending in the court of Sh. Rajvinder Singh, Ld. Additional Principal Judge, Family Court, Ludhiana. It is admitted to the extent of solemnization of the marriage between the petitioner No. 1 and the respondent No. 1. It is further averred that the marriage of the petitioner No. 1 and respondent No. 1 was simple one without any great pump and show. Only few persons were consisting in barat. Neither any dowry was demanded by the respondents nor the same was given by the parents of the petitioner No. 1. No gold ornaments were given to the respondents by the petitioner No. 1 or her parents. There is no question of misappropriation of dowry articles by the answering respondents, because all the dowry articles were kept by the petitioner No. 1 with her. The relationship of the parties and birth of the minor son Sehajdeep Singh is admitted. The behaviour of the petitioner No. 1 was not cordial towards the respondents during her stay in the matrimonial home since date of marriage. After the birth of the

child and in the month of April 2015, the petitioner No. 1 left the matrimonial house without informing the respondent No. 1 and she came back to the matrimonial house on 02.06.2016 with the intervention of the panchayat and respectable and the petitioner No. 1 promised not to quarrel with the respondents in future and a written compromise was effected on application filed by the respondent No. 1 with SSP. After that the petitioner No. 1 remained of good behaviour for some time, but again in the month of September 2017, the petitioner No. 1 left the matrimonial house and also took minor son with her in the absence of the respondents. After that the matter was reported to the police and with the intervention of SP Office, Jagraon and a written compromise was again effected, but even after writing she never paid any heed to come to the matrimonial house. After that in the month of June, 2018, the petitioner No. 1 again created scene in the matrimonial house and after few days, she left the matrimonial house and while leaving she threatened to commit suicide and indulged the whole family in the false cases. It is further averred that the petitioner No. 1 is studied upto 10+2 (higher secondary) with non medical and is also VCT Diploma holder (of two years) and presently, she is doing the job at Shankra Eye Hospital at Mullanpur. The petitioner No. 1 is not entitled for any maintenance from the respondent no. 1 and she has herself deserted the respondent No. 1. The respondent No. 1 is labourer person. All the remaining averments made by the

petitioners have been denied and lastly prayed for dismissal of the present complaint/application.

3. It is pertinent to mention here that the case was fixed for making payment and evidence of the petitioners, none appeared on behalf of the respondents and accordingly, they were proceeded against exparte vide order dated 04.10.2023 and case was fixed for exparte evidence of the petitioners.
4. In exparte evidence, first of all, petitioner No. 1 Simarjeet Kaur herself stepped into the witness box as CW-1 and she has deposed through her duly sworn affidavit Ex.CW1/A, vide which, she has deposed as per the version taken in the complaint/application, which needs no repetition here. Besides this, she tendered photographs as Ex.CW1 to Ex.CW6 respectively, copy of Aadhar Card in the name of Sehajdeep Singh as Ex.CW7, notarized copies of receipts issued by the school in the name of Sehajdeep Singh as Ex.CW8 to Ex.CW21 respectively, notarized copy of certificate dated 13.12.2022 as Ex.CW22 and copy of her Aadhar Card as Ex.CW23.
5. Further, the petitioners have examined Sukhwinder Singh son of Gurmail Singh as CW-2 and he has deposed through his duly sworn affidavit Ex.CW2/A, vide which, he has fully supported and corroborated the stand taken by the petitioners, which needs no repetition here. Besides this, he tendered copy of his Aadhar Card as Ex.C24.

6. Further, the petitioners have examined Reena Rani as CW-3 and he has deposed through her duly sworn affidavit Ex.CW3/A, vide which, she has fully supported and corroborated the stand taken by the petitioners, which needs no repetition here. Besides this, she tendered copy of her Aadhar Card as Ex.C25.
7. Further, the petitioners have examined Gurmail Singh son of Chana Singh as CW-4 and he has deposed through his duly sworn affidavit Ex.CW4/A, vide which, he has fully supported and corroborated the stand taken by the petitioners, which needs no repetition here. Besides this, he tendered copy of his Aadhar Card as Ex.C26.
8. Lastly, the petitioners have examined Buta Singh son of Jagir Singh as CW-5 and he has deposed through his duly sworn affidavit Ex.CW5/A, vide which, she has fully supported and corroborated the stand taken by the petitioners, which needs no repetition here. Besides this, he tendered copy of his Aadhar Card as Ex.C27.
9. Thereafter, evidence of the petitioners was closed by order of the court and case was fixed for exparte arguments.
10. I have heard the contentions of ld. Counsel for the petitioners and have gone through the file carefully and minutely.
11. After considering everything on record this court has observed that petitioners by filing this application U/s 12 of the Protection of women from Domestic Violence Act, 2005(Act 43 of 2005) has claimed relief of protection, residence, monetary and compensatory relief.

12. The factum of marriage between petitioners and respondent no.1 is admitted in the reply filed on behalf of respondents before proceedings exparte and is further stands proved from the statement made by the petitioners on oath. Further birth of minor i.e. petitioners No. 2 and his residence with the petitioner No. 1 is not also disputed. It is evident from the evidence produced on record that petitioner No. 1 is living separately along-with her child and is no longer staying at her matrimonial home. Respondents were given full opportunity to contest the present petition but as such they did not avail the same and the evidence of the petitioners has remained unrebutted and unchallenged. The petitioners have been deserted by respondent no.1. She has also proved on record that she has no source of income to earn her livelihood and is fully dependent on her parents. It is evident from the evidence brought on record that respondents are not paying anything towards maintenance to the petitioners as they are willfully neglecting to do the same. Respondent no.1 being legally wedded husband of petitioner No. 1 and father of petitioner No. 2 is morally as well as statutorily bound to maintain his wife and child, who is presently not adhering to the needs of aggrieved persons and as such, is willfully neglecting his family and not paying any maintenance to her without any plausible cause. It has also come in evidence that all the respondents used to harass the aggrieved persons and even treated with cruelty by them. An effectual opportunity was given to

the respondents to rebut the evidence being adduced against them but however, they did not appear in the court and as such all the allegations leveled against them have remained unchallenged. The witnesses examined by the aggrieved persons have fully corroborated their version and entirely supported the case of the petitioner. There is nothing on record which could influence the court to discredit the testimony of the petitioner No. 1 as well of the witnesses examined by her.

13. Respondent No. 1 in his written reply took plea that exparte decree of divorce was granted in his favour vide judgment and decree dated 25.05.2022. However, marriage between the parties was solemnized on 31.03.2015 and was subsisting at the time of institution of the present petition. The allegations of Domestic Violence relates to the period prior to the passing of decree of divorce. Therefore, subsequent grant of exparte decree of divorce does not affect the maintainability of the present proceedings under Protection of Women from Domestic Violence Act, 2005.

14. Under these circumstances, this court is of the thoughtful opinion that entire evidence led by the aggrieved persons has remained unrebutted and unchallenged and this court does not find any ground for disallowing the petition. It is the duty of respondent no.1 to maintain the petitioner No. 1 and child, as he is legally and morally bound to maintain her being legally wedded husband of the petitioner No. 1 and father of petitioner No. 2. In these days of

spiraling rise and prices, it is very difficult for the lady to meet the expenses for her day to day needs and also to bear the litigation expenses. However, no documentary proof has been placed on record to prove that respondent no.1 is earning more than Rs. 30,000/- per month. In these circumstances, his income is assessed to be that of a daily wager. Accordingly, this court is of the opinion that petitioner No. 1 has proved her application under section 12 of the Protection of Women from Domestic Violence Act, 2005 and the petition is hereby allowed with the following orders:-

- i) Under section 18 of the Act, respondents are restrained from causing physical as well as mental torture to the petitioners.
- ii) Under section 19 of the Act, petitioners have sought for residence orders, however, respondent no.1 is directed to make arrangements for her rental accommodation and is further directed to pay monthly rent of Rs. 5000/- in addition to Rs. 12000/- per month monthly allowance.
- iii) Under section 20 of the Act, respondent no.1 is directed to pay Rs. 10,000/- per month towards monthly maintenance to the petitioner No. 1 and Rs. 2000/- per month for maintenance of petitioner No. 2.
- iv) Under section 22 of the Act, respondents are directed to give Rs.3000/- towards compensation and damages and Rs.1000/- towards litigation charges.

Present application is hereby allowed as mentioned above and

the same be disposed of accordingly. File be consigned to record.

Pronounced.

Dated:-06.08.2026

Manoj Kumar Stenographer-II

(Riffi Bhatti),

Judicial Magistrate Ist Class,

Jagraon (UID No. PB0563)

This order has been directly dictated on the computer.