

04.01.13

*Today is fixed for passing order in respect of the petition dated 03.09.12 of the respondent no.2 Supriya Pal.*

*Both parties file their respective haziras.*

*Ld. Advocate for the respondent submits that the respondent no.2 Supriya Pal is a woman and innocent and that as per definition of the 'Respondent' u/s 2(q) of the PWDV Act no female person can be made as a respondent. Therefore he prayed for dismissal of the case in respect of respondent no.2 Supriya Pal as the same is not maintainable as per law.*

*Ld. Advocate for the petitioner raises strong objection and filed a written objection against the petition.*

*Ld. Advocate for the petitioner submits that the respondent no.2 Supriya Pal is the mother in law of the petitioner and directly involved in the case and that the law has been changed after the judgment of Hon'ble Supreme Court reported in 2011 Cri.L.J. 1687.*

*Heard both sides. Perused the record. Considered.*

*Sec.2 (q) of the P.W.D.V. Act is as follows:*

*“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.*

*The proviso u/s 2(q) of the PWDV Act indicates that the definition is a inclusive one and a female relative of the husband or male partner can be implicated as respondent.*

*Hon'ble Supreme Court has been pleased to observe as follows while interpreting the definition of u/s 2(q) of the PWDV Act.*

*“ From the above definition it would be apparent that although Section 2(q) defines a respondent to mean any adult male person, who is or has been in a domestic relationship with the aggrieved person, the proviso widens the scope of the said definition by including a relative of the husband or male partner within the scope of a complaint, which may be filed by an aggrieved wife or a female living in a relationship in the nature of a marriage.*

*It is true that the expression "female" has not been used in the proviso to Section 2(q) also, but, on the other hand, if the Legislature intended to exclude females from the ambit of the complaint, which can be filed by an aggrieved wife, females would have been specifically excluded, instead of it being provided in the proviso that a complaint could also be filed against a relative of the husband or the male partner. No restrictive meaning has been given to the expression "relative", nor has the said expression been specifically defined in the Domestic Violence Act, 2005, to make it specific to males only.*

*In such circumstances, it is clear that the legislature never intended to exclude female relatives of the husband or male partner from the ambit of a complaint that can be made under the provisions of the Domestic Violence Act, 2005.”*

*Here in the case it is clear that the respondent no.2 Supriya Pal is the mother in law of the petitioner i.e. mother of the respondent no.1.*

*In view of the above discussion and in the light of the observation of Hon'ble Supreme Court reported in 2011 Cri.L.J. 1687, the instant petition dated 03.09.12 is liable to be rejected.*

*Hence the instant petition dated 03.09.12 for dismissal of the case against respondent no.2 Supriya Pal is rejected on contest but without any cost.*

*Fix 06.02.2013 for hearing on the interim petition dated 27.06.12 and W/O if any in the meantime.*

*Both parties are directed to be ready on the next date for hearing.*

*J.M.*