
(2016) 07 RAJ CK 0145

In the Rajasthan High Court

Case No : Criminal Revision Petition No.743 of 2014

Man Singh Palaiya

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 20-07-2016

Acts Referred:

Protection of Women From Domestic Violence Act, 2005 — Section 17, Section 23

Citation : (2017) 1 RajCriC 366

Hon'ble Judges : Goverdhan Bardhar, J.

Bench : Single Bench

Advocate : Mr. Bharat Srimali, Advocate, for the Petitioners; Mr. L.R. Upadhyay, Public Prosecutor, for the Appearing Party; Mr. Khalid Azem, Advocate, for the Respondent No.2.

Final Decision : Dismissed

Judgement

Goverdhan Bardhar, J.—This revision petition has been filed against the order dated 23.05.2014, passed by the Additional District and Sessions Judge No.4, Jodhpur Metropolitan, Jodhpur (hereinafter "the appellate court") whereby the appellate court has modified the order dated 07.04.2014, passed by the Additional Civil Judge (J.D.) and Metropolitan Magistrate No.8, Jodhpur Metropolitan, Jodhpur (hereinafter "the trial court") and set aside order of maintenance passed in favour of son and daughter. The appellate court further ordered that if any amount has been paid by the husband Praveen Kumar Shakya after the order dated 07.04.2014, the same shall be adjusted and further bound to not commit any domestic incident.

2. Counsel for the petitioners has argued that in the application filed under Section 23 of the Protection of Women from Domestic Violence, 2005 (hereinafter "the Act of 2005"), no prayer for issuing protection order has been made and only interim relief with regard to the maintenance has been prayed. But the learned trial court has erroneously issued protection order as well. It is further argued that exclusive property of parents and other relatives of husband

cannot be treated as shared household within the meaning of Section 2(s) of the Act of 2005.

3. Counsel for the respondent No.2 has argued that in the application filed under Section 23 of the Act of 2005, there was a likelihood of an act of domestic violence, therefore the learned trial court has rightly passed the protection order as interim relief.

4. Heard the learned counsel for the parties and perused the impugned orders passed by the appellate court and the trial court.

5. Section 17 of the Act of 2005 provides that wife is entitled to claim a right to residence in a shared household or house which belongs to joint family of which husband is a member. Section 23 of the Act of 2005 empowers the Magistrate to pass such interim order as he deems just and proper. The application under Section 23 of the Act of 2005 prima facie discloses that the petitioners have committed an act of domestic violence and there is a likelihood that the petitioners may commit an act of domestic violence.

6. The impugned order has been passed at the intermediate stage of the proceedings. I do not find any ground to interfere with the impugned order.

7. The revision petition is without force. Dismissed. Stay application also dismissed.