
(2014) 02 RAJ CK 0167

In the Rajasthan High Court

Case No : Criminal Misc. Petition No. 2316/2013

Ramzan and Others

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 12-02-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Protection of Women From Domestic Violence Act, 2005 — Section 23

Citation : (2014) 2 WLN 165

Hon'ble Judges : Vijay Bishnoi, J

Bench : Single Bench

Advocate : D.S. Udawat, Advocate for the Appellant; Vikram Rajpurohit, Public Prosecutor for the State, Advocate for the Respondent

Judgement

Vijay Bishnoi, J.—This criminal misc. petition under Sec. 482 Cr.P.C. has been filed by the petitioners against the order dt. 06.09.2013 passed by Gram Nyayalaya, Raipur, District Pali (for short "the Court below" Court" hereinafter), whereby the Court below has allowed the application preferred on behalf of respondent Nos. 2 and 3 under Sec. 23 of Protection of Women From Domestic Violence Act and directed the petitioner No. 1 to pay the maintenance amount to the tune of Rs. 2500/- and Rs. 1500/- as house rent, and also restrained the petitioners from harassing the respondent Nos. 2 and 3. Learned counsel for the petitioners has argued that the Court below has passed the order without providing any opportunity of hearing to the petitioners because the notices issued by the Court below have never been served upon the petitioners. It is contended by the learned counsel for the petitioners that as per the report of the process server, the notices were served upon one Sonu S/o. Chhotu of Village Jamalpura, who has no relation with the petitioners. It is also contended that Sonu S/o. Chhotu was not supposed to inform about the notice to the petitioners because a revenue litigation between the father of the petitioner No. 1 and the father of Sonu is going on in the Court of S.D.O., Raipur, Pali.

2. Despite service of notice upon the respondent Nos. 2 and 3, none has appeared on their behalf.

3. The learned Public Prosecutor is not in a position to dispute the fact that the notices issued by the Court below have not been served upon the petitioners personally or their relatives and were served upon one Sonu son of Chhotu, who has no relation with the petitioners.

4. In such circumstances, this criminal misc. petition filed under Sec. 482 Cr.P.C. is allowed. The order dt. 06.09.2013 passed by the Court below is quashed and set aside. The petitioners are directed to appear before the Court below on 03.03.2014 and the Court below is directed to decide the application preferred by the respondent Nos. 2 and 3 after providing opportunity of hearing to the petitioners. It is made clear that the Court below shall also inform by issuing notice to the respondent Nos. 2 and 3 about rehearing of the matter, however, there is no need to issue notices to the petitioners as they have already been directed to appear before the Court below on 03.03.2014. Since the criminal misc. petition itself has been allowed, the stay petition also stands disposed of.