* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Reserve: 22nd September, 2010
Date of Order: September 27, 2010

+CRL. R.P. No. 633 of 2010, CRL. M.A. NO. 15451/2010
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27.09.2010

RENU MITTAL ... Petitioner
Through: Mr Shiv Charan Garg with Mr. Imran Kha, Advs.

Versus

ANIL MITTAL & ORS. ... Respondents
Through: Mr O.P. Saxena, Addl. PP for the State.

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?

2. To be referred to the reporter or not?

3. Whether judgment should be reported in Digest?

JUDGMENT

1. This Revision Petition has been filed by the petitioner against an order dated 20th May, 2010 whereby learned Additional Sessions Judge (ASJ) dismissed an appeal filed by the petitioner against the order of learned Metropolitan Magistrate (MM) partly allowing the application under Protection of Women from Domestic Violence Act, 2006 ('Domestic Violence Act' for short) and partly rejecting the application under Domestic Violence Act.

2. The petitioner had married the respondent in the year 2006 and a dispute arose between her and her husband soon after the marriage and in the year 2007 itself the petitioner filed a petition under Section 125 of Code of Criminal Procedure (Cr. P.C.) against the respondent for grant of maintenance. Learned MM awarded a maintenance of ₹ 6,000/- p.m. The petitioner also filed an FIR u/s 498A/406 IPC against respondent and thereafter filed an application under Section 12 of Domestic Violence Act seeking therein, apart from maintenance, compensation under various heads of ₹ 1.00 lakh, ₹ 2.00 lakh, ₹ 3.00 lakh and ₹ 5.00 lakh. She had also asked for rights of residence. The learned MM after considering the averments made by both the parties, observed that Section 12(2) of the Domestic Violence Act provides that compensation can be claimed by the parties for the injuries under civil suit as well. The petitioner had made astronomical claims for compensation without specifying grounds for different compensations in her petition. At one place the claim was of ₹ 1.00 lakh, at another place for ₹ 2.00 lakh, at third place for ₹ 3.00 lakh and at fourth place for ₹ 5.00 lakh. In support of these claims no documents etc. were filed. She also claimed *Istridhan* and dowry, while she had already preferred a criminal case under Section 498-A/406 of IPC against the respondent and issue of dowry demand or non return of any article was pending before the competent Court and that Court was to decide if any *Istridhan/* dowry article was still with the respondent. The Court

therefore allowed the application of the petitioner only partly to the extent of re-confirming the maintenance of ₹ 6,000/- p.m. and as awarded to her by the learned MM under Section 125 of Cr. P.C. dismissing the rest of the claim. Learned ASJ after going through the entire material upheld the order of MM.

3. The revision petitioner has argued that learned ASJ did not fix maintenance after considering the evidence of the parties and fixed the maintenance on the basis of order passed by the Court of MM under Section 125 of Cr. P.C.

4. It must be considered that for granting maintenance, a party can either approach the Court of MM under Domestic Violence Act soon after commission of Domestic Violence or under Section 125 Cr. P.C. claiming maintenance. The Jurisdiction for granting maintenance under Section 125 Cr. P.C. and Domestic Violence Act is parallel jurisdiction and if maintenance has been granted under Section 125 Cr. P.C. after taking into account the entire material placed before the Court and recording evidence, it is not necessary that another MM under Domestic Violence Act should again adjudicate the issue of maintenance. The law does not warrant that two parallel courts should adjudicate same issue separately. If adjudication has already been done by a Court of MM under Section 125 Cr. P.C., re-adjudication of the issue of maintenance cannot be done by a Court of MM under Domestic Violence Act. I, therefore,

consider that learned MM was right in allowing maintenance only to the tune of ₹ 6,000/- p.m.

6. So far as other reliefs are concerned, the learned MM and ASJ had given liberty to the petitioner to approach the Civil Court and prove that she had suffered loss and was entitled for compensation. I find no ground to interfere with this order of learned ASJ as the order is not without jurisdiction. I also find force in the reasoning given by learned ASJ that since the matter regarding dowry articles and *Istridhan* was pending before another court, it was rightly not gone into by MM as it would not have been appropriate for the Court of MM under Domestic Violence Act to initiate simultaneous adjudication in respect of *Istridhan* and dowry articles, when another court was seized with the matter.

7. I, therefore, find no force in this petition. The petition is dismissed.

**SEPTEMBER 27, 2010** **SHIV NARAYAN DHINGRA, J.**
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