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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Order: 29th November, 2010

Crl. M.C. 3700/2010 with
Crl. M.A. 17863-64/2010

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29.11.2010

GAUTAM SAPRA

... Petitioner

Through: Ms. Rebecca M. John, Advocate with Mr. Vishal Gosain and
Mr. S.M. Bhaskar, Advocates

Versus

STATE GOVT. OF NCT OF DELHI & ANR

...Respondents

Through: Mr. Sunil Sharma, 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?

ORAL

1. This petition has been preferred assailing order dated 30th October, 2010 whereby an application of the petitioner assailing jurisdiction of the Court of MM under Protection of Women from Domestic Violence Act ('Domestic Violence Act' for short) was dismissed.

2. Brief facts relevant for the purpose of deciding this petition are that the respondent before the court of MM made an application under Domestic Violence Act invoking jurisdiction on the basis of her temporary residence in Delhi. She hired a room in hotel/ lodge in Pahar Ganj and filed the petition. Subsequently, she moved into a tenanted premise within Delhi. It was argued that in view of the judgment of this Court in ***Sarat Kumar Pandey Vs. Mamta Pandey (2010) IV AD (Cre) DHC 565***, the court of MM would have no jurisdiction to entertain the application since the applicant had hired a room in the hotel only for the purpose of invoking jurisdiction of Delhi Court. The

petitioner was living in Gurgaon and he had already filed a petition under Hindu Marriage Act for Restitution of Conjugal Rights before a District Court at Gurgaon and therefore Gurgaon would have been the proper Court where application under Section 12 of Domestic Violence Act should have been filed.

3. The respondent in this case is a Uzbekistani citizen. The petitioner had married her after a courtship and the parties were living at Gurgaon after marriage. However, she had made allegations in her petition showing how she was compelled to leave the company of the petitioner and in laws and compelled to go back to Uzbekistan and live there with her mother. She had also given in detail, the instances of domestic violence. All these allegations have been countered by the petitioner who has his own story to tell. Nevertheless, it is to be kept in kind that applicant/respondent had no home in India. She belongs to Uzbekistan and when alleged instances of domestic violence had taken place, she left the company of the petitioner and went to live with her mother at Uzbekistan. Under these circumstances, after returning to India, she had chosen to stay in Delhi temporarily instead of staying at Gurgaon. I consider her stay in Delhi qualifies her to file an application under Section 12 of Domestic Violence Act.

4. In *Sarat Kumar Pandey* this court had observed that temporary residence in lodge or hotel would not give jurisdiction to Court if the person hires lodge or hotel only for the purpose of filing Domestic Violence application and has no other reason to make the place as her temporary residence. In the present case, after landing in Delhi from Uzbekistan, the applicant had no choice but to live at a lodge or hotel as she had no friend or relative in India. Thereafter, after grant of maintenance, she hired an accommodation in Delhi and made Delhi her temporary residence. Under these circumstances, I consider that Trial Court rightly dismissed the application. The petition is not maintainable and is hereby dismissed.

SHIV NARAYAN DHINGRA J.

NOVEMBER 29, 2010
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