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09.11.2012

Present: Mr. Syed Ahed, Adv. for the petitioner.
Mr. Mukesh Gupta, APP for the State.

+ Tr.P.(Crl.) No.9/2011

1. This is a petition filed under Section 407 r/w Sec. 482 Cr.P.C. by virtue of which the petitioner has prayed for transfer of the complaint case no.114/2008 pending in the Court of Ms.Pooja Talwar, Metropolitan Magistrate, Mahila Court (south-east), Saket Court Complex, New Delhi to the Court of Ms.Illa Rawat, ADJ, Tis Hazari, Delhi presently presided by Sh.S.Kumar, ADJ where a divorce petition bearing no.541/10/2008 is pending. There is no appearance on behalf of the respondents despite service.
2. I have heard the learned counsel for the petitioner and gone through the record.
3. The petitioner is having matrimonial dispute with the respondent no.1 as a consequence of which number of cases and cross cases have been filed by the parties against each other. It has been stated that as on date, there are two matters which are pending in the Court of Sh. S.Kumar, ADJ at Tis Hazari. One is a divorce petition bearing no.541/10/2008 filed by the respondent

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no.1 against the present petitioner, his wife on the ground of cruelty.

4. So far as the other petition bearing no.542/10/2008 is concerned, that is a petition filed by the present petitioner against the respondent no.1 for restitution of conjugal rights. Both these cases are pending in the same Court and a common set of evidence is sought to be recorded by the learned ADJ.
5. The petitioner has also filed a petition under Section 12 of the Protection of Women against Domestic Violence Act, 2005 which is presently pending in the Court of Ms.Pooja Talwar, Metropolitan Magistrate, Mahila Court (south-east), Saket Court Complex, New Delhi. It is contended that the evidence in that domestic violence matter would be common to the one which is sought to be recorded in case of restitution of conjugal rights or for that matter in case of divorce and, therefore, it will be in the larger interest of both the parties that the case which is pending at Saket Court be transferred to Tis Hazari Court to be tried along with other two set of cases. It has also been stated that this will help the Court to decide the cases on the basis of the common evidence which will be led by the parties. It is submitted that the matter is listed before the learned ADJ at Tis

Hazari Courts on 21.11.2012 for the purpose of recording statement of the present petitioner.

6. I have carefully considered the submission.
7. There has been no appearance on behalf of the respondents on two occasions despite service although on earlier occasion, the learned counsel had put in appearance. It seems that the respondents are deliberately trying to delay the disposal of the matter. The prayer which has been made by the petitioner seems to be quite genuine as this would help not only the parties but also the Court to take a larger perspective of the entire evidence which the parties may like to produce with regard to the matrimonial litigation. Therefore, I find no impediment in directing that the complaint case bearing no.114/2008 titled **Smt. Namita Chhabra Vs. Sh.Amit Mohan Chhabra & Ors.** which is pending in the Court of Ms.Pooja Talwar, learned MM, Mahila Court, (south east) Saket Court Complex, New Delhi or its successor be transferred to the Court of Sh.S.Kumar, ADJ to be tried along with the other cases. The transfer must take place at the earliest so that the said case is listed before the transferee Court on 21.11.2012 along with other two matters.

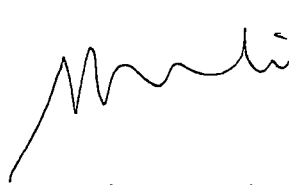
8. The petition is accordingly disposed of

9. Dasti.

NOVEMBER 09, 2012

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V.K. SHALI, J.