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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: April 08, 2015

+ **CRL.M.C. 418/2013**

SANTOSH MAHAJAN Petitioner
Through: Mr. Khushbir Singh, Advocate

versus

SHACHI MAHAJAN & ANR. Respondents
Through: Mr. T.K. Tiwari and Ms. Shachi
Mahajan, Advocates for
respondent No.1

**CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR**

% **JUDGMENT
(ORAL)**

Vide impugned order of 7th November, 2012 petitioner has been summoned in a compliant under Section 12 of *the Protection of Women from Domestic Violence Act, 2005*. Petitioner is the mother-in-law of first respondent, who seeks quashing of the impugned summoning order on the ground that vide impugned order petitioner has been restrained from dispossessing respondent-complainant from the matrimonial house except by following due process of law.

Petitioner is aggrieved of the aforesaid interim protection issued in the impugned order.

At the hearing, it was vehemently asserted on behalf of petitioner

that petitioner is the registered owner of the property in question and she has already dispossessed her son, who had married first respondent, and so, there was no justification in restraining petitioner from dispossessing respondent-complainant. It was pointed out that a civil suit instituted by petitioner against first respondent is already pending. Thus, it was submitted that impugned order deserved to be quashed qua petitioner.

On behalf of respondent-complainant, it was submitted that the question of petitioner's premises being a shared household of first respondent, ought not to be pre-judged as petitioner has already filed reply to first respondent's complain and the matter is pending before the trial court.

Learned counsel for respondent-complainant submits that no case for exercise of inherent extraordinary jurisdiction of this Court under Section 482 of Cr.P.C. is made out as the stand taken by petitioner herein is required to be considered while passing an order under Section 17 of *the Protection of Women from Domestic Violence Act, 2005*.

Upon hearing and on perusal of the impugned order and the material on record, I find that this petition raises a question of fact, which cannot be determined in exercise of jurisdiction under Section 482 of Cr.P.C. and so, it is left open for the trial court to do so while passing an order so far as the claim under Section 17 of *the Protection of Women from Domestic Violence Act, 2005* is concerned.

In view of the report of the Protection Officer and the documents produced by the complainant, the impugned summoning order is not required to be interfered with.

In view of aforesaid, this petition is disposed of with liberty to

petitioner to raise the pleas taken herein before the trial court at the appropriate stage. Nothing said in this order shall be construed to be an expression on merits at trial.

(SUNIL GAUR)
JUDGE

APRIL 08, 2015

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