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

+ TR.P.(CRL.) 14/2017

SAROJ

..... Petitioner

Through: Mr. L.J.S. Mehra, Advocate with
Ms. Tabbasum Firdausi, Advocates

versus

SARWAN KUMAR

..... Respondent

Through: Mr. Rajesh Pandey along with
Mr. Lalit Bhardwaj, Advocates.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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08.11.2017

This petition filed under Section 407 Cr.P.C., read with Section 482 Cr.P.C. seeks transfer of complaint under Section 12 of Protection of Women from Domestic Violence Act, 2005 registered vide CC no. 4993631/16 pending in the court of learned M.M./Mahila Court, Dwarka, New Delhi to any other Court, on the ground that the respondent who is an advocate by profession has a locational advantage as he practices in the Dwarka District Courts and indeed is a member of the said Court's Bar Association. Resultantly; that she has been subjected to unwarranted taunts and other unsavoury comments, insinuations and imputations against her character by or at the behest of the respondent, making it difficult for her to pursue her case freely in the said District Court precincts.

The transfer of the petition is sought on the same grounds as raised in the transfer of two civil suits pending before the same Court against the same parties. The latter two cases have been transferred by this Court by orders in TR. P. (C) 21/2017 dated 28.04.2017 and TR. P. (C) 162/2017

dated 10.10.2017 from the Court of Senior Civil Judge, South-West District, Dwarka Courts, New Delhi on the basis of a report which was furnished by the Civil Court and is a part of the record.

In the order dated 30.08.2017 this Court had observed:-

“2. Mr. Rajesh Pandey, Advocate appears for both the respondents and states that a detailed reply to the Transfer Petition has been filed on behalf of both the respondents and denies the averments in the petition, particularly concerning the conduct of the respondent No. 1 who is an advocate admittedly of Dwarka Courts. It is also his contention that such request for transfer on earlier occasion has already been declined finding no veracity in the similar averments of the petitioner.

3. I have also perused the reports requisitioned from the Courts concerned and on perusal of the same, without intending to return any finding on the conduct of which the respondent No. 1 has been accused of, it is deemed appropriate to transfer the suit to the District Judge, New Delhi District, Patiala House Courts, New Delhi who is requested to assign the same to appropriate Court.

4. The petition is thus allowed”.

In the order of 10.10.2017 the Court had observed *inter alia*:-

“3. Transfer, in exercise of powers under Section 24 of the CPC, is sought of Suit No. CSDJADJ/17785/16 titled “Sarwan Kumar Vs. Saroj @ Sweety” pending in the Court of Ms. Rajrani Mitra, Additional District Judge (ADJ)- 04, South-West, District, Dwarka Courts, New Delhi to any of the District Courts at Delhi or New Delhi pleading that the respondent, an advocate, practising at Dwarka Courts causes harassment to the petitioner.

4. The petitioner earlier also had filed Transfer Petition (Civil) No.109/2017 for transfer of another suit between the same parties from Dwarka Courts, New Delhi on the same grounds. Notice of the said petition was issued and a report sought from the Court in which that suit was pending as well

as from the District Judge, South-West, Dwarka Courts, New Delhi. Vide subsequent order dated 30th August, 2017, the said transfer petition was allowed and the suit subject matter thereof was transferred from South-West District, Dwarka Courts, New Delhi to New Delhi District, Patiala House Courts, New Delhi.

5. In view of the aforesaid, need to repeat the process or to issue notice to the respondent is not felt.

6. The petition is allowed.

In the aforesaid circumstances, the Court is of the view that a case is made out for transfer of the case from the learned M.M./Mahila Court, Dwarka, New Delhi to learned MM/Mahila Court, Patiala House Courts, New Delhi. It is so ordered. The petition is allowed.

The learned MM/Mahila Court, Dwarka and the District and Sessions Judge, South West District, Dwarka Courts are requested to have the file of the transferred case physically transferred to the learned MM, Mahila Court, Patiala House, New Delhi. The parties shall appear before the latter Court on 4th December, 2017.

NAJMI WAZIRI, J

NOVEMBER 08, 2017

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