

\$~29

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

DECIDED ON : 25th MAY, 2017

+ **CRL.M.C. 1385/2016**

TEJINDER GULATI

..... Petitioner

Through : Mr.Tarun Goomber with Mr.Gaurav
Goswami, Mr.Jitender Goomber and
Ms.Priti Goswami, Advocates.

versus

RANJEETA KAUR GULATI

..... Respondent

Through : Mr.Vinit Virmani with Mr.R.K.Kohli,
Advocates.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (Oral)

1. In the present petition under Section 482 Cr.P.C., the petitioner seeks modification of the order dated 16.11.2010 whereby condition was imposed upon him not to travel abroad without prior permission of the Court. The petition is contested by the respondent.

2. I have heard the learned counsel for the parties and have examined the file. The petitioner is facing trial in a complaint case filed under Protection of Women from Domestic Violence Act, 2005 (In short 'DV Act') by the respondent. He is also involved in case FIR No.475/2012 registered under Sections 498A/406/34 IPC at PS Hari Nagar. The parties were married to each other on 08.12.2007. A child born out of this wedlock is in the custody of the respondent.

3. By an order dated 16.11.2010 while releasing the passport, the petitioner was directed not to leave Indian territory without prior permission of the Court. It was done so as the respondent had grave apprehension that the petitioner would leave India to reside permanently in Australia. The petitioner moved an application under Section 25 DV Act seeking alteration / modification / revocation of the order dated 16.11.2010. Dismissing it vide order dated 09.11.2011, it was observed that condition not to visit abroad was to protect the respondent's interest as admittedly the petitioner had Australian Permanent Residency visa. The petitioner challenged the orders in Crl.A.No. 30/2011; it resulted in dismissal by an order dated 30.01.2014. The Appellate Court was of the view that condition imposed upon the petitioner was a well reasonable condition considering the interest of the parties.

4. I find no illegality or material irregularity in the impugned orders. To protect the interest of the respondent herein, the Trial Court in its wisdom has directed the petitioner not to leave India without its prior permission. There is no complete restraint upon the petitioner not to go abroad. During the pendency of the trial, the petitioner had sought permission to visit Ghana (Africa) for two months. The petitioner availed the permission granted by the Court. No adverse view was taken by the Trial Court even when the permission period exceeded by two months.

5. The petitioner is not a frequent visitor to abroad as claimed. Only on one occasion, during the entire period, the petitioner seemingly, moved any application to visit abroad. Moreover, the respondent's counsel has agreed to accept service on phone / e-mail details of which have been furnished. He has also given consent to accept service on behalf of the

respondent to avoid delay in disposal of any application to visit abroad. It rules out delay in disposing application for permission to travel abroad.

6. Considering the facts and circumstances of the case, I find no substance to modify the condition; the impugned orders cannot be termed illegal or arbitrary.

7. Before parting, it is to be noted that no substantial progress has been made in the proceedings pending before the Trial Court. Till date, application for interim maintenance has remained un-disposed of. Record reveals that various unnecessary adjournments have been sought by the respondent / complainant. Despite the matter pending before the Trial Court since 2010, not a single witness has so far been examined.

8. The Trial Court shall endeavour to expedite the trial and dispose of the petition at the earliest. No unnecessary adjournments shall be permitted to the complainant.

9. The petition stands disposed of in the above terms. Trial Court record be sent back forthwith with the copy of the order.

(S.P.GARG)
JUDGE

MAY 25, 2017 / tr