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

+ **CRL.M.C. 4815/2017**

R KABILAR

..... Petitioner

Through: Mr. S. Muthukrishnan, Adv.

versus

SANGEETHA C MENON

..... Respondent

Through: Mr. Sourabh Bhargavan, Adv. for
respondent along with respondent in
person.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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14.08.2018

By this petition under Section 482 of the Code of Criminal Procedure, 1973, petitioner has assailed the order dated 10th August, 2017 passed by the Metropolitan Magistrate in a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 ('the Act', for short) filed by the respondent against the petitioner whereby notice has been issued to the petitioner for 25th September, 2017.

Petitioner has not availed the remedy of appeal under Section 29 of the Act; instead has preferred present petition.

It is submitted that petitioner had earlier filed a petition under Section 12 of the Act. Matter was referred to Delhi Mediation Centre and a settlement was arrived at between the parties on 16th February, 2016 vide Annexure P-3. Accordingly, the complaint under Section 12 of the Act was disposed of in view of, the settlement. It is submitted that second complaint is not maintainable and is abuse of process of law.

Learned counsel for the respondent contends that petitioner had

entered into the settlement in the first complaint in order to get the earlier complaint disposed of in view of the settlement without having any intention to honour the terms of settlement. Petitioner did not comply the terms of settlement. He did not take the complainant with him to Madurai. He even did not pay ₹10,000/- per month as was agreed by him. Petitioner even did not pay ₹4 lacs which he had undertaken to pay to the respondent no.2, towards the loan taken by her for her survival, during the separation time. As per the petitioner settlement was duly complied with. It is the respondent who had not honoured the settlement.

From the above facts, it is clear that there are allegations and counter allegations levelled by the parties against each other, which cannot be decided in the present petition under Section 482 Cr.P.C. Veracity of allegations and counter allegations can be tested only during the trial.

For the foregoing reasons, petition is dismissed. Miscellaneous application is disposed of as infructuous.

A.K. PATHAK, J.

AUGUST 14, 2018

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