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

+ CRL.REV.P. 217/2018 & CrI. M.A. nos. 4667-69/2018

SUSHIL KUMAR SINGH Petitioner
Through Mr. D.P. Kaushik, Adv.

versus

SHRUTI SINGH Respondent
Through

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

ORDER
% **13.03.2018**

Respondent filed a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (“the Act”, for short) before the Metropolitan Magistrate, Delhi against the petitioner. Petitioner was summoned. An application under Section 9 read with Section 151 CPC was moved for dismissal of the complaint. This application was dismissed by the learned Metropolitan Magistrate, Delhi, vide order dated 11th November, 2013. Petitioner preferred an appeal under Section 29 of the Act, which was dismissed, vide order dated 11th July, 2017 by the Appellate Court. Thereafter, petitioner filed an application under Section 114 read with Order XL VII Rule 1 (b) seeking review of the order dated 11th July, 2017. Vide

order dated 31st August, 2017 learned Additional Sessions Judge has dismissed this application by holding that court being criminal court does not have the power to review the order under the Code of Civil Procedure. That is how, petitioner is before this Court by filing the present petition under Section 397 Cr.P.C.

Section 28 of the Act reads as under:-

“28. Procedure – (1) Save as otherwise provided in this Act, all proceedings under Sections 12, 18, 19, 20, 21, 22 and 23 and offences under Section 31 shall be governed by the provisions of the Code of Criminal Procedure, 1973 (2 of 1974).

(2) Nothing in sub-section (1) shall prevent the court from laying down its own procedure for disposal of an application under Section 12 or under sub-section (2) of Section 23.”

Aforesaid provision makes it clear that proceedings under Section 12 would be governed by the provisions of the Cr.P.C. It is noted that Rule 6 (5) of the Protection of Women From domestic Violence Rules also envisages that the application under Section 12 shall be dealt with and the orders enforced in the same manner laid down under Section 125 of the Cr.P.C.

For the foregoing reasons, I do not find any irregularity in the

impugned order. Petition is dismissed with costs of ₹25,000/- to be paid by the petitioner to respondent. In case costs is not paid on the dated fixed before the trial court it shall be recovered in the same manner in what maintenance order is enforced.

Miscellaneous applications are disposed of as infructuous.

A.K. PATHAK, J.

MARCH 13, 2018

r.bararia