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

+ CRL.M.C. 4589/2015 & CrI.M.A. 16434/2015 (stay)

VIJAY KUMAR

..... Petitioner

Through: Ms. Shilpa G. Mittal, proxy counsel
for Mr. K. Singhal, Adv.

versus

KHILONI

..... Respondent

Through: Respondent in person.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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12.10.2018

The respondent had instituted proceedings in the court of Metropolitan Magistrate against the petitioner by filing a petition under Section 12 of the Protection of Woman from Domestic Violence Act, 2005 seeking various reliefs including protection orders against domestic violence, order for her right to residence and compensation in the sum of Rs. 20,00,000/- for the acts constituting domestic violence alleged by her.

The Metropolitan Magistrate taking cognizance on the said petition, issued notice to the petitioner, he having been served with the said process on 20.08.2015 requiring his appearance before the said court on 14.10.2015. Instead of appearing before the court of the Metropolitan Magistrate, he came with the present petition invoking the extraordinary jurisdiction of this court under Section 482 of the Code of Criminal Procedure, 1973, seeking quashing of the case before the Metropolitan Magistrate.

His prime contentions are that no case of domestic violence of

recent origin has been indicated in the petition.

By order dated 26.11.2015, a learned single Judge of this Court had stayed the proceedings in the case before the Metropolitan Magistrate. Ever since the said order was passed and the presence of the respondent has been secured, the petitioner has been seeking adjournments on some or the other reasons. There is no reason why the ordinary procedure where the petitioner should appear before the concerned court and give his reply raising all the contentions against the relief sought by the opposite party should not be followed in the present case. The manner in which the petitioner has been dragging feet in these proceedings itself is found to be an abuse of the process of law.

Even otherwise, the contentions raised by the petitioner give rise to question of fact and law that should be first considered by the concerned Magistrate in as much as they cannot be effectively addressed in the proceedings under Section 482 Cr. P.C. [see *Rajiv Thapar and Ors. Vs. Madan Lal Kapoor*, (2013) 3 SCC 330]

The petition is dismissed. The interim stay is vacated.

The contentions of the petitioner are, however, reserved. The same may be agitated before the concerned Metropolitan Magistrate for its consideration and determination.

R.K.GAUBA, J.

OCTOBER 12, 2018/uj