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

+ CRL.M.C. 4691/2015 and Crl. M.A. 16835/2015

SANJEEV KUMAR JUNEJA

..... Petitioner

Through: Ms. Charu Bansal, proxy counsel

versus

STATE AND ORS

..... Respondents

Through: Mr. Mukesh Kumar, APP for the State
Ms. Naomi Chandra, Adv. for R-2 & 3

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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21.08.2018

The petition at hand was submitted impugning the order dated 05.12.2014 passed by the Metropolitan Magistrate on the file of petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (registered as CC no.237/3/14) of the second respondent for herself and on behalf of the third respondent, the other respondents being proforma parties.

By the impugned order, the Metropolitan Magistrate issued notice to the petitioner calling him upon to appear and answer. The copy of the petition on which the said order was passed upon perusal would reveal that it is based on certain grievances raised by the second respondent (wife) against the petitioner (her husband), the acts of commission and omission alleged therein *prima facie*

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constituting a case of domestic violence.

By the said petition, various reliefs including the order of maintenance have been prayed for. Concededly, the petitioner had appeared before the court of the Metropolitan Magistrate and had submitted the reply resisting the prayers in the said petition. Though in the brief facts and list of dates which have been added to the petition, reference is also made to an order dated 01.09.2015 of the Metropolitan Magistrate directing interim maintenance allowance to be paid in the sum of Rs.35,000/-, neither in the petition nor by any application attached thereto any relief is sought against such order, the caption to the petition (page 'C') indicating the only order impugned being the one which was passed on 05.12.2014.

Upon perusal, it is found that on the complaint of the second respondent, a prosecution of offence under Section 498A IPC was also launched presumably on similar set of allegations as form the basis of the Domestic Violence Act case. It is indicated in the petition that the trial in the said case has ended in an order of acquittal. The grievance of the petitioner is also that the interim order was passed without the said result of criminal case having been taken into account. The acquittal in a criminal case corresponding to the case from which the present petition arises, by itself, does not mean that the allegations of the second respondent (wife) about she having been subjected to domestic violence are to be disbelieved. The test in both the jurisdictions is distinct. Even otherwise, as submitted by the counsel for the second respondent, an appeal against the order of CRL.M.C. 4691/2015

acquittal is stated to have been entertained by the High Court of Punjab and Haryana at Chandigarh.

In the above facts and circumstances, the petition challenging the preliminary order dated 05.12.2014 only issuing notice on the petition under Domestic Violence Act is misconceived. It is dismissed. This disposes of the pending application as well.

R.K.GAUBA, J

AUGUST 21, 2018

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