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

% Judgment delivered on: 21.01.2019

+ CRL.REV.P. 476/2018

SACHIN GUPTA

..... Petitioner

versus

RACHANA GUPTA

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Sanjay S. Chhabra with Mr.
Satish Chaudhary, Advocates.

For the Respondent : Mr. Saurabh Soni with Ms. Mannat
Singh, Advocates.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

**CRL.REV.P. 476/2018 & CrI.M.A.10158/2018 (stay),
CrI.M.A.10920/2018 (for modification of order dated 24.05.2018)**

1. Petitioner impugns judgment dated 13.02.2018, whereby, the application of the petitioner under Order VII Rule 11 CPC, impugning proceedings initiated by the Respondent under section 125 Cr.P.C. on the ground of territorial jurisdiction, has been rejected.

2. Learned counsel for the petitioner submits that the petitioner in all proceedings except in these proceedings has mentioned her

residential address as Aligarh and has even filed a transfer petition before the Allahabad High Court seeking transfer of the petition for dissolution of marriage from Meerut to Aligarh.

3. Learned counsel for the respondent submits that the petitioner is residing in Delhi and has filed the petition in Delhi as she is living with her brother in Delhi. It is submitted that she has sought transfer of these proceedings from Meerut to Aligarh as Aligarh is her parental home but she has been residing in Delhi since 2008.

4. Section 126 (1) Cr.P.C. lays down as under:-

“126. Procedure.

(1) Proceedings under section 125 may be taken against any person in any district-

(a) where he is, or

(b) where he or his wife, resides, or

(c) where he last resided with his wife, or as the case may be, with the mother of the illegitimate child.”

5. Section 126(1) Cr.P.C. stipulates that the proceedings under 125 Cr.P.C. may be filed in any district where the respondent resides or where his wife resides or where the respondent last resided with his wife, or as the case may be, with the mother of the illegitimate child.

6. In terms of Section 126(1)(b), the respondent would be entitled

to maintain a petition both at the place where the husband is residing as also at the place where she is residing. Section 126(1) does not contemplate a permanent place of residence. Even a place where the wife is for the time being residing would confer jurisdiction on such a court, where she is residing. However, residence temporarily acquired solely for conferring jurisdiction would not satisfy the requirements of Section 126(1).

7. In the present case, Respondent has placed on record copies of her Voter ID card issued in 2008, Aadhar Card as also the income tax returns wherein she has mentioned her address as that of Paschim Vihar, Delhi. Though the income tax return has been filed with the Assessing Officer at Aligarh, the address mentioned is that of Delhi. It is explained by the respondent that the Assessing Officer continues to be in Aligarh Circle whereas her residence is in Delhi. The respondent is stated to be today unemployed and is not in a position to maintain herself.

8. Trial Court has noticed that the Petitioner husband is resident of Meerut and in terms of connectivity and distance Delhi is much closer to Aligarh.

9. Keeping in view of the fact that the wife can maintain a petition at any place where she is residing and the fact that the respondent has placed on record copies of her Aadhar Card, Voter ID Card, which reflect the address of Delhi, I am of the view that the Trial Court has

not committed any error in the impugned order by rejecting the application of the petitioner holding that the Trial Court has territorial jurisdiction.

10. In view of the above, I find no merit in the petition. The petition is, accordingly, dismissed. There shall be no order as to cost.

11. Order *Dasti* under the signatures of the Court Master.

JANUARY 21, 2019
st

SANJEEV SACHDEVA, J

