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

+ CRL.M.C. 4838/2017 & CRL.M.A. 19252/2017

MEENU AGGARWALPetitioner

Through: Mr. Jai Gupta, Advocate

Versus

STATE & ANRRespondent

Through: Dr. M.P. Singh, Additional Public
Prosecutor for respondent-State
with SI Baljinder Singh
Mr. Vivek Aggarwal and
Mr. Sanjay Bansal, Advocates for
respondent No. 2

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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26.04.2019

Impugned order of 28th April, 2017 rejects petitioner's application for being examined through video conferencing. The revisional court vide order of 26th August, 2017 has maintained the aforesaid trial court's order by observing that petitioner had filed similar application before trial court which was dismissed vide order of 16th April, 2015 and the said order was not challenged by petitioner.

To assail the impugned order, learned counsel for petitioner places reliance upon Supreme Court's decision in *Krishna Veni Nagam vs. Harish Nagam* (2017) 4 SCC 150 to submit that the inability of parties to contest the proceedings living away, can be taken care of by the availing of video conferencing facility. So, it is submitted on behalf of petitioner,

the impugned orders deserve to be set aside and petitioner be granted one opportunity to get her evidence recorded by video conferencing.

On the contrary, learned counsel for respondent submits that petitioner's evidence already stands closed vide order of 28th April, 2016 and the said order attained finality. It is submitted that it is impermissible to file successive applications on the same cause without challenging the order passed on the previous application. So, it is submitted that this petition deserves dismissal, as the case is now coming up before the trial court on 4th May, 2019 for final arguments in FIR No. 185/2012, under Section 498(A)/34 of IPC, registered at police station Daryaganj, Delhi.

Upon hearing and on perusal of impugned orders as well as order of 16th April, 2015 and trial court's order of 28th April, 2016, counter affidavit of respondent No. 2 and the material on record, I find that trial court's order of 16th April, 2015, vide which petitioner's application for getting her evidence recorded through video conferencing was dismissed, has attained finality. It is gross judicial indiscipline that without challenging the order of 16th April, 2015 petitioner has filed another application with the same prayer which is not permissible. During the course of hearing, no reason was put forth by counsel for petitioner as to why order of 16th April, 2015 was not challenged. Otherwise also, petitioner's evidence stands closed vide order of 28th April, 2016 which has not been challenged by petitioner. A perusal of trial court's order of 28th April, 2016 reveals that petitioner herself has been prolonging proceedings to the detriment of respondent, who is also a citizen of The United States of America (*hereinafter referred to as U.S.A.*) and due to pendency of this case, he has to perforce remain in India. This aspect was

highlighted by respondent's counsel during the course of hearing. Financial stringency and not getting leave are not the reasons put forth by petitioner who is also a citizen of U.S.A. It was brought to notice of this court during the course of hearing that the parties have already obtained divorce by mutual consent.

In the facts and circumstances of this case, I find that reliance placed by counsel for petitioner upon Supreme Court's decision in *Krishna Veni Nagam (Supra)* is of no assistance to the case of petitioner, as vide order of 16th April, 2015 her prayer for video conferencing already stands rejected.

Finding no substance in this petition and the application, they are accordingly dismissed.

(SUNIL GAUR)
JUDGE

APRIL 26, 2019

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