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

+ **CRL.M.C. 1576/2020 & CRL.M.A. 9370/2020**

JIA MALHOTRA

.....Petitioner

Through: Mr.Yash Mishra, Ms. Ruchi Kohli, Ms.
Nidhi Jaswal, Mr. Pronoy Chatterjee &
Mr. Akhil Hasija, Advocates.

Versus

KAMAL MALHOTRA & ORS.

.....Respondents

Through: Mr.Kamal Kumar Ghei, APP for State.

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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16.07.2020

(hearing through Video Conferencing)

CRL.M.A. 9370/2020 (Ex.)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

CRL.M.C. 1576/2020

The link of the present proceedings is indicated to have been sent to the respondent nos. 1 to 3. The respondent no.6/State is also represented by Mr. Kamal Kumar Ghei, APP.

It has been informed by the Court Master of this Court that despite the link having been sent to Mr.Vijay Kaushik, Advocate (vijaykaushikadvocate74@gmail.com) representing the respondent nos. 1 to 3 who is also representing the said respondents before the learned Trial Court but he is not present to participate in the proceedings.

Vide the present petition, the prayers made by the petitioner are to the effect:-

“a. Direct the Respondent No.s 1, 2, and 3 to allow the Petitioner to use the all household facilities freely, without any hindrance; and

b. Direct the Respondent No.s 1, 2, and 3 to allow the Petitioner free ingress and egress in and out of the shared household, without any interference; and

c. Direct the Respondents to comply with the interim protection orders dated 13.05.2019 and 16.07.2019 passed by the Ld. Magistrate in Complaint Case No. 160009/2019; and

d. Direct Respondent No.4 to use her powers under Protection of Women from Domestic Violence Act, 2005 and the in respect of enforcing an interim protection order against the Respondent Nos. 1, 2, and 3; and

e. Direct Respondent No. 1 to be admitted in a rehabilitation centre for dealing with his alcohol and smoking addiction, in order to ensure the welfare of the minor children; and

f. Decide the Interim Maintenance in favour of the Petitioner on the basis of the Income Affidavits of the Petitioner and Respondent No.1 in light of the Covid 19 situation; and

g. Direct the Respondent No.5 to prevent any slander or defamation of the Petitioner in the society, especially by Respondent No.s 1, 2 and 3 where the shared household is situated,

h. Call for the Trial Court Records of Complaint Case No. 16009/2019 pending before the Ld. Metropolitan Magistrate, Dwarka District Court, 'New Delhi, for fair and proper adjudication of the present matter;”

A bare perusal of the averments made in the petition indicates that it has been asserted by the petitioner that despite the order dated 16.07.2019 of the Trial Court of the learned MM, Mahila Court-02, Dwarka Courts, New Delhi, the petitioner is not in a position to share her household appropriately and in accordance with her needs and that there is continuous hindrance being created by the respondent nos. 1 to 3 and the video clippings have also been emailed to the Court for perusal.

In as much as, the prayer clause (a) to (g) all fall within the ambit of the domain of the learned Trial Court seized of the proceedings in relation to CC No.16009/19 with a submission having also been made on behalf of the petitioner as averred in the ground (K) of the petition that proceedings of the matter after the last order being passed on 05.11.2019 have not been taken up continuously as depicted therein vide the said ground, which reads to the effect:-

“K. It is most unfortunate to point out herein that the said Complaint Case No. 16009/2019 has not been taken up for hearing since the past 8 months, and therefore, the Petitioner has been unable to bring these violations of the Respondent No.s1,2 and 3 to the notice of the Ld. Metropolitan Magistrate. After the last order being passed on 05.11.2019, the matter was listed for hearing on the following dates:

DATE OF HEARING	ORDER PASSED	NEXT DATE OF HEARING
23.12.2019	No order passed since Ld. Magistrate was on leave.	03.03.2020
03.03.2020	No order passed since Ld. Magistrate was on leave.	05.05.2020
05.05.2020	Functioning of District Courts suspended due to Covid 19 pandemic.	24.06.2020
24.06.2020	Functioning of District Courts suspended due to Covid 19 pandemic.	07.09.2020

and that the proceedings are now listed for 07.09.2020 in view of the prevailing pandemic submitting further vide clause (L) of the grounds of the petition also that there are prayers made for monthly maintenance

amongst other interim reliefs which have not been decided till date and the matter has been stagnant at the stage of arguments for more than 8 months and that the petitioner has no source of income to support herself and is suffering everyday at the hands of Respondent No.s 1,2, and 3, who are not only trying to dispossess the Petitioner but also preventing her from using the household facilities like the Air conditioner, fridge, gas etc., it is considered essential that the proceedings of CC No.16009/19 pending before the learned MM, Mahila Court-02, Dwarka Courts, New Delhi are taken up expeditiously.

The learned Trial Court shall take up the proceedings within a period of 10 days from the present order and in any event on or before the date 27.07.2020 of this month. The respondents and their counsel be also apprised of the date of hearing by sharing a link of the proceedings by the learned trial Court.

Copy of this order be sent to the learned Trial Court through the District & Sessions Judge, Dwarka Courts, New Delhi to ensure compliance thereof.

The SHO, PS Sector-9 Dwarka shall take care of the apprehensions made by the petitioner in relation to the assaults being made on her and the State shall provide the petitioner with the number of the beat constables and the SHO concerned of the area for effective compliance.

The petition is disposed of accordingly.

ANU MALHOTRA, J

JULY 16, 2020
'neha chopra'