

CWP-8564-2022 (O&M)

Date of Decision: 09.05.2022

Shweta Singh

....Petitioner

VS

Union of India and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Rajesh Kumar, Advocate and
Mr. Munish Garg, Advocate
for the petitioner

Mr. Satya Pal Jain, Addl. Solicitor General of India with
Mr. Arvind Seth, Advocate
for respondent No. 1 - Union of India

SUDHIR MITTAL, J. (Oral)CM-6673-CWP-2022

This application has been filed for placing on record Annexures P-11
and P-12.

Application is allowed and Annexures P-11 and P-12 are taken on
record.

CWP-8564-2022

Respondent No. 3 had filed a Civil Original Petition No. 1 of 2022
based upon letter of request dated 17.12.2021 issued by the competent Circuit
Court at Fairfax County, Virginia, United States of America seeking issuance of a
Commission for recording the evidence as requested by the Foreign Court. Vide
order dated 11.02.2022, the said petition was allowed and Chief Judicial Magistrate
Gurugram was appointed as the Commission for recording evidence.
Consequently, order dated 11.03.2022 has been passed by the Chief Judicial
Magistrate, Gurugram issuing notice to concerned witnesses as well as the

respondent in the said petition. Thus, the present writ petition has been filed

challenging order dated 11.03.2022 as well as for directions to respondent No. 2 not to proceed with the directions given in Civil Original Petition No. 1 of 2022.

Respondent No. 3 was the legally wedded wife of Pramod K. Chaudhary (respondent in Civil Original Petition No. 1 of 2022). The marriage was dissolved by a decree of divorce granted by the competent Court in the United States of America some times in the year 2012 and respondent No. 3 was ordered to pay spousal support amounting to U.S. \$ 5000 till the happening of one of the events mentioned in the order. Re-marriage of the husband or co-habitation with another person were also mentioned as events for stoppage of spousal support. A petition was filed by respondent No. 3 before the competent Circuit Court in Fairfax County, Virginia, United States of America for termination of spousal support on the allegation that her former husband namely Pramod K. Chaudhary had remarried the petitioner namely Shweta Singh. Thus, the letter of request dated 17.12.2021 was issued leading to passing of order dated 11.02.2022.

Learned counsel for the petitioner has submitted that the motion for termination of spousal support has been withdrawn vide order dated 14.02.2022 copy Annexure P-5 and vide further order dated 15.02.2022 passed in the said case, respondent No. 3 has been ordered to pay arrears of spousal support amounting to US \$ 59,654 alongwith interest and the matter has been adjourned to 20.05.2022 for compliance of the said order. Thus, recording of evidence pursuant to order dated 11.02.2022 would be an exercise in futility. Accordingly, order dated 11.03.2022 passed by the Commission deserves to be quashed. It has further been argued that the petitioner has been unlawfully involved in this case. She is the tenant of Pramod K. Chaudhary and a married woman. False allegations have been made against her which amounts to violation of her right to privacy. For vindication of this right, the Supreme Court had been approached under Article 32

14.12.2020 with liberty to avail any other alternative remedy. Accordingly, the petitioner had approached the Delhi High Court and notice has been issued to the Central Government in the said case. This shows that the privacy of the petitioner is being violated and the same deserves to be protected.

Order dated 11.03.2022 has been passed by the Chief Judicial Magistrate Gurugram pursuant to order dated 11.02.2022 passed by this Court. It is, therefore a lawful and valid order and does not deserve to be quashed. Withdrawal of petition for termination of spousal support and passing of order penalizing respondent No. 3 would also not make any difference as the interests of the petitioner would not be harmed even if evidence is recorded. Recording of evidence by the Chief Judicial Magistrate, Gurugram can not by any stretch of imagination be deemed to be an intrusion into the privacy of the petitioner and, thus, the argument regarding violation of the right of privacy of the petitioner is misconceived.

It may also be noticed that this writ petition has been filed to nullify an order passed by the High Court in a Civil Original Petition. A writ petition under Article 226 of the Constitution of India can not be filed for this purpose and, thus, the same deserves dismissal on the ground of maintainability also.

For the aforementioned reasons, the writ petition has no merit and is dismissed.

09.05.2022
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(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No