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

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Reserved on:29.05.2023***Pronounced on: 07.07.2023***+ **W.P.(CRL) 854/2023 & CRL.M.A. 7732/2023****LYDIA MONICA JOHN****..... Petitioner**

Through: Mr. Trideep Pais, Senior Advocate with Mr. Mihir Samson, Ms. Asawari Sodhi, Ms. Gargi Sethi and Mr. Pradip K. Singh, Advocates

versus

THE GOVERNMENT OF NCT OF DELHI**THROUGH ITS CHIEF SECRETARY & ORS..... Respondents**

Through: Mr. Amol Sinha, ASC for the State with Mr. Kshitiz Garg, Mr. Ashvini Kumar and Ms. Chavi Lazarus, Advocates
Mr. Anil Mittal, Mr. Shaurya Mittal and Mr. Kumar Shubham, Advocates for R-3 and R-4
Mr. Prosenjeet Banerjee, Ms. Nidhi Mohan, Mr. Deepak Yadav, Mr. Imran Ali and Ms. S. Singh, Advocates for R-5

(24)

+ **W.P.(CRL) 972/2023 & CRL.M.A. 8954/2023****LYDIA MONICA JOHN & ORS.****..... Petitioners**

Through: Mr. Trideep Pais, Senior Advocate with Mr. Mihir



Samson, Ms. Asawari Sodhi,
Ms. Gargi Sethi and Mr. Pradip
K. Singh, Advocates

versus

THE GOVERNMENT OF NCT OF
DELHI & ORS.

.... Respondents

Through: Mr. Amol Sinha, ASC for the
State with Mr. Kshitiz Garg,
Mr. Ashvini Kumar and Ms.
Chavi Lazarus, Advocates
Mr. Anil Mittal, Mr. Shaurya
Mittal and Mr. Kumar
Shubham, Advocates for R-2 to
R-5
Mr. Prosenjeet Banerjee, Ms.
Nidhi Mohan, Mr. Deepak
Yadav, Mr. Imran Ali and Ms.
S. Singh, Advocates for R-6

CORAM:
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. This judgment shall govern the disposal of W.P.(Crl.) Nos. 854/2023 and 972/2023 arising out of common set of facts and contentions.
2. By way of above-captioned petitions filed under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, the petitioners seek following reliefs:



- i. In W.P.(Crl.) No. 854/2023, the petitioner seeks quashing of notice dated 16.03.2023 issued by respondent no. 4, summoning the petitioner in R-SSP-20(Application)/2023 made by respondent no. 5;
 - ii. In W.P.(Crl.) No. 972/2023, the petitioners seek quashing of order dated 04.04.2023 passed by the Court of Additional Chief Judicial Magistrate, Court no. 1, Muzaffarnagar, Uttar Pradesh ('ACJM, U.P.') in Criminal Misc. Case 424/2023 instituted by respondent no. 6 and all related proceedings before respondent no. 5 i.e. SHO, Nai Mandi, Muzaffarnagar, Uttar Pradesh.
3. Brief facts of the case, *as disclosed in W.P.(Crl.) No. 972/2023*, are that the marriage between petitioner no. 1 and respondent no. 6 was solemnized in Delhi, as per catholic ceremony under the Christian Marriage Act, 1872 on 25.10.2014 which was registered at Delhi. At the time of marriage, the petitioner no.1 was Christian and respondent no. 6 was Hindu and it is stated that they continue to profess the same faith till date. From their marriage, two daughters, presently aged about 07 years and 05 years, were born, both of whom were raised in Delhi and are studying in a school in Delhi. The petitioner no. 1 alleges that after some years of marriage, the respondent no. 6 had started subjecting her to domestic violence and she had separated from him on 11.04.2022 and had started living with her two children in a separate accommodation. It is stated that several matrimonial disputes are pending between the parties, including complaint of domestic violence, divorce petition,



guardianship petition, etc. As stated, it had come to the knowledge of the petitioners that the impugned order dated 04.04.2023 was passed by learned ACJM, U.P. in Criminal Misc. Case 424/2023 *vide* which an application filed under Section 156(3) Cr.P.C. by respondent no. 6 seeking registration of an FIR on the basis of false allegations of conspiracy of religious conversion had been allowed. It is stated that such false allegations are purportedly covered under the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021, which has no application to the NCT of Delhi where petitioner no.1 and respondent no. 6 had lived for the duration of their marriage. It is also stated that this order was obtained by deliberate suppression of order dated 23.03.2023, passed by this Court in W.P.(Crl.) 854/2023 seeking quashing of summoning notice dated 16.03.2023 issued by respondent no. 4 therein, whereby the Court had issued notice to all respondents and had specifically directed respondent nos. 2 and 4 not to take any coercive steps against petitioner.

4. It is further stated that petitioner no. 1 is aged about 36 years and also has physical custody of two minor children born from her marriage with respondent no. 6. It is stated that the petitioner no.2 and 3 are senior citizens and parents of petitioner no. 1 and parents-in-law of respondent no. 6. It is stated that respondent no. 6, by way of an application under Section 156(3) Cr.P.C., has levelled false allegations against the petitioners, alleging them to have forced him and his daughters to convert their religion. It is also stated that respondent no. 6 i.e. husband of petitioner is also a permanent resident of Delhi and the passport of the parties including minor children reveal that they are permanent resident



of Delhi only and thus, respondent no. 6 has misguided the Court at Muzaffarnagar about his place of residence and the birth place of minor daughters.

5. In the petition, the petitioner has mentioned several incidents of mental and physical violence by respondent no. 6. It is stated that on 19.11.2022, respondent no. 6 had filed a petition under Guardians and Wards Act in Saket Courts, Delhi seeking custody of minor daughters by leveling false and baseless allegations against petitioner no. 1. It is stated that it was nowhere mentioned in the said petition that there was any attempt or intention of the petitioners to convert the religion of their daughters. It is stated that respondent no. 6 has thus, voluntarily acknowledged and submitted to the jurisdiction of the Family Court at Delhi. It is also stated that he has himself mentioned that the Courts at Delhi have jurisdiction to transfer the custody of the daughters to him. It is therefore, stated that all these facts were suppressed before the concerned Judge at Uttar Pradesh and the order was obtained on false grounds. It is stated that respondent no. 6 was aware about the whereabouts of petitioner no. 1 and the minor daughters, and has deliberately mislead learned ACJM, Uttar Pradesh. It is stated that for most of December, 2022 and early January, 2023, respondent no. 6 was traveling to Hawaii, USA, Dubai and UAE while the daughters were spending winter holidays in the care of petitioner no.1. It is stated that on 09.02.2023, petitioner no.1 had moved an additional application seeking to restrain respondent no. 6 from visiting their daughters at their school after the school administration had complained about the same, and she also had learnt from the Principal of the daughters' school that



respondent no. 6 had been coming to the school during class time to meet the daughters and when the Principal had objected, he had yelled at her and threatened to file a case against her. It is stated that the mediation process between the parties had not succeeded and a case was filed by petitioner no.1 for divorce on the ground of cruelty. But on 24.02.2023, respondent no.6 had withdrawn the case under Guardianship and Wards Act. Thereafter, on 18.03.2023, the petitioner no. 1 had received a summoning notice from SSP, Muzaffarnagar, Uttar Pradesh based on a complaint lodged by respondent no. 6 on 15.03.2023 alleging that petitioner no. 1 had attempted to unlawfully convert her daughters' religion, which is an offence in the state of Uttar Pradesh, and petitioner no. 1 was directed to appear before SSP, Muzaffarnagar, within two days to give her statement. It is stated that since petitioner no.1 could not leave her minor daughters alone to travel to Muzaffarnagar, she had submitted a written reply on 20.03.2023, denying the allegations as well as the jurisdiction of concerned official in Muzaffarnagar to inquire into the complaint. In her reply, she had stated that respondent no. 6 had agreed during their marriage that their children would not have any religion and would be raised to respect both religions and that the same situation continued to exist till date. It was stated that two daughters were not Christians as they had not undergone Baptism which is mandatory for becoming a Christian. It was therefore, stated that there is no conversion of Ms. 'X' and Ms. 'Y', the two daughters of the parties. Being aggrieved by the issuance of the aforesaid summoning notice, petitioner no. 1 had filed the W.P.(Crl.) No. 854/2023 before this Court for quashing of the summoning notice. It is stated that thereafter, the



husband i.e. respondent no. 5 had mischievously filed an application under Section 156(3) Cr.P.C. before the Courts at Muzaffarnagar, which had led to the passing of impugned order.

6. Learned senior counsel for the petitioners argues that a bare perusal of all the documents on record would reveal that even as per the complaint, none of the alleged incidents had taken place at Muzaffarnagar or that either of the petitioner had committed any alleged act in Muzaffarnagar. It is stated that the parties were litigating throughout in Delhi and there was no such allegation of conversion of religion in the petition filed by the husband under Guardianship and Wards Act. It is argued that the impugned order infringes the right of freedom and liberty and undermines the jurisdiction of this Court which is currently seized of the proceedings arising out of complaint. It is also stated that the impugned order suffers from non-application of mind and has been issued without any consideration or cause, and the complaint had been filed by the husband of petitioner no. 1 with ulterior motives.

7. Learned senior counsel for petitioners draws this Court's attention to the case of *Navin Chandra Majithia v. State of Maharashtra* (2000) 7 SCC 640 and argues that as per the said judgment, this Court has jurisdiction under Article 226(2) of Constitution of India to examine the validity of the complaint and FIR in case the cause of action has taken place within its territorial jurisdiction, even if the complaint or FIR has been lodged in another State. It is stated that it is a settled law that in a criminal case, the cause of action relates to the place where alleged offence is committed and not where complaint is filed. It is also stated that the parties have always resided in Delhi, the daughters were born



and brought up in Delhi, and the parties had married in Delhi and continued to stay in Delhi and therefore, the Courts in Uttar Pradesh have no jurisdiction. It is stated that the learned ACJM, Muzaffarnagar, Uttar Pradesh has disregarded the territorial requirements of Section 177 Cr.P.C. since no cause of action had arisen in Muzaffarnagar. It is also stated that the purported residence of respondent no. 6 at Muzaffarnagar and a purported visit thereto by the two minor daughters in September, 2022 on which they were not accompanied by any of the petitioners is not a valid basis for respondent no. 5 to assume jurisdiction. It is stated that the religion of children has not been converted and the petitioners do not intend to do so. It is also stated that despite being Christian, petitioners have never tried to impose their religion on the two minor daughters and have brought them up in a loving and inclusive atmosphere. It is submitted that by degrading a mother's love merely because she belongs to another religion and accusing her of baseless allegations, respondent no. 6 is infringing her right under Article 21 of Constitution of India. It is thus, prayed that these proceedings initiated at behest of respondent no. 6 are gross abuse of law and, therefore, the impugned order dated 04.04.2023 passed by learned ACJM, Muzaffarnagar, Uttar Pradesh be quashed.

8. On the other hand, learned counsel appearing for respondent no. 6 argues that the reliance placed by petitioners on decision of *Navin Chandra Majithia (supra)* is misconceived as the said case is distinguishable on facts. It is further stated that this Court has no territorial jurisdiction to entertain the present petition under Section 482 of the Cr.P.C. In this regard, learned counsel has placed reliance upon



several decisions of different High Courts, including *Krishnakumar Menon v. Neoteric Informatique Pvt Ltd. 2001 SCC OnLine Ker 436*, *Tripti Vyas v. Ahlers India Pvt. Ltd. 2006 SCC Online Raj 1626*, and *Rahul Gupta v. State of Rajasthan 2009 SCC Online Guj 12077*. While arguing that judicial order under Section 156(3) Cr.P.C. directing the registration of FIR is amenable to challenge in a revision petition before the jurisdictional court, learned counsel places reliance upon judgment of this Court in *Nishu Wadhwa v. Siddharth Wadhwa 2017 (236) DLT 612*. Further, the learned counsel argues that entertaining non-maintainable petitions against orders passed by Courts falling within the supervisory jurisdiction of other High Courts will lead to docket explosion, and in this regard, reliance is placed upon *Hamida v. Rashid Alias Rasheed (2008) 1 SCC 474*.

9. Learned ASC for the State also argued that the present writ petition is not maintainable before this Court and the same ought to be dismissed for want of jurisdiction.

10. This Court has heard arguments addressed by both sides and has perused the material on record.

11. On the issue of territorial jurisdiction, learned senior counsel for the petitioner argued that the entire cause of action, even going by the case of respondent no. 6, had arisen in Delhi alone and not elsewhere, and thus, this Court would have sole territorial jurisdiction to entertain the present petitions. To appreciate the arguments addressed on behalf of petitioners, this Court has perused the impugned order dated 04.04.2023 as well as the application filed under Section 156(3) Cr.P.C. by respondent no. 6 before the Court of learned ACJM, Muzaffarnagar.



This Court observes that as stated in the said application, the place of residence of the complainant was Muzaffarnagar, and the complainant had even arrived with his daughters to reside at this place in September, 2022 and during this period also, the petitioners had pressurized the complainant to convert his religion as well the religion of his daughters to Christianity. Further, the gravamen of the allegations leveled by respondent no. 6 against the petitioner relates to petitioners forcing respondent no. 6 and his daughters to convert their religion to Christianity i.e. commission of offences punishable under the Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021, which is a specific legislation enacted in Uttar Pradesh, prohibiting unlawful conversion from one religion to another by misrepresentation, force, undue influence, coercion, allurement or by any fraudulent means or by marriage and for the matters connected therewith or incidental thereto. However, there is no such state enactment in NCT of Delhi. Thus, it would be incorrect to hold at the outset that the concerned Court in Muzaffarnagar did not have the territorial jurisdiction to entertain the application filed by respondent no. 6 under Section 156(3) Cr.P.C.

12. Further, learned senior counsel for the petitioner, while relying on the case of *Navin Chandra Majithia (supra)* had argued that if the cause of action, either in whole or in part, arises within the territorial jurisdiction of this Court, then even if the complaint or FIR is filed in another state, this Court will still carry the jurisdiction to examine the validity of the complaint or FIR. Thus, according to the learned senior counsel, under Article 226(2) of the Constitution of India, this Court has jurisdiction to try any case pending anywhere in India if the cause of



action has arisen within the jurisdiction of this Court. However, in the given set of facts and circumstances, this Court is unable to agree with the said contention as the decision relied upon by the learned senior counsel differs in facts from the present case. The decision relied upon by the learned senior counsel relates to exercise of jurisdiction under Article 226 in reference to examining validity of the complaint and registration of FIR at Shillong, Meghalaya in relation to events, majority of which had taken place in Mumbai, Maharashtra, which is distinguishable from the present case since in the case at hand, the subject of examination before this Court is not an FIR registered in another state, rather a judicial order passed by the Court of learned ACJM, Muzaffarnagar upon an application filed by respondent no. 6 under Section 156(3) Cr.P.C., thereby directing registration of FIR under appropriate provisions of law which may include provisions of Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021, which is an Act, specific to the state of Uttar Pradesh. Moreover, it is not disputed that an order passed under Section 156(3) Cr.P.C. is amenable to the revisional jurisdiction, and thus, the petitioner has the remedy to file an appropriate petition before the concerned Court in Uttar Pradesh.

13. The contentions raised on behalf of petitioners that the parties were married in Delhi, the children were born in Delhi, the acts of atrocities were committed upon petitioner no. 1 in Delhi, multiple litigations are pending in Delhi between the parties and that the contentions and grounds raised by the respondent no. 6 himself in the guardianship petition do not disclose any such allegations, cannot be gone into by this Court in context of the alleged offence qua which



complaint has been filed before the ACJM, Muzaffarnagar. The appropriate forums for the petitioner to raise such arguments will be the concerned Court where the revision petition may lie against the impugned order or the same may be challenged before the Hon'ble High Court of Allahabad, as per law. Thus, the Courts at Uttar Pradesh will have necessary jurisdiction to deal with the present case.

14. In these circumstances, the petitioner will be at liberty to raise all the grounds and contentions raised before this Court before the Courts at Uttar Pradesh as they deem appropriate.

15. Thus, for the reasons recorded in preceding paragraphs, this Court is of the opinion that the present petition is not maintainable before this Court due to lack of jurisdiction.

16. Accordingly, the present petitions alongwith pending applications stand dismissed.

17. The judgment be uploaded on the website forthwith

SWARANA KANTA SHARMA, J

JULY 7, 2023/ns