



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

% *Date of decision: 23rd August, 2023*

+ TR.P.(CRL.) 103/2023, CRL.M.A. 22633/2023 (Exemption)

SHIVANI CHANANA Petitioner

Through: Mr.Anurag Jain, Advocate.

versus

STATE NCT OF DELHI & ORS. Respondents

Through: Mr.Ritesh Kumar Bahri, APP for the State.

Insp. Naresh Kumar, SI Dheeraj, PS. Maurya Enclave.

Mr.Nitin Mehta, Advocate.

+ TR.P.(CRL.) 104/2023, CRL.M.A. 22634/2023 (Exemption)

SHIVANI CHANANA & ANR. Petitioners

Through: Mr.Anurag Jain, Advocate.

versus

GAURAV CHANANA & ANR.

..... Respondents

Through: Mr.Nitin Mehta, Advocate.

+ TR.P.(CRL.) 105/2023, CRL.M.A. 22635/2023 (Exemption)

SHIVANI CHANANA & ANR. Petitioners

Through: Mr.Anurag Jain, Advocate.

versus

GAURAV CHANANA

..... Respondents

Through: Mr.Nitin Mehta, Advocate

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CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL

AMIT BANSAL, J. (Oral)

1. The present petitions have been filed seeking transfer of the following three criminal cases from the competent courts in Rohini Courts to the competent courts in Karkardooma Court, Delhi:
 - a. Criminal Case arising out of the FIR No. 642/2021 under Sections 498A/406/34 of the Indian Penal Code, 1860 (IPC) registered at Police Station Maurya Enclave, Delhi.
 - b. Criminal Case arising out of the Complaint Case No.3065/2021 under Section 12 of the Domestic Violence Act, 2005 (DV Act) pending before the Metropolitan Magistrate Mahila Court, Rohini Court.
 - c. Criminal Case arising out of the MT No. 122/2021 under Section 125 of the Code of Criminal Procedure, 1973 (CrPC) pending before the Family Court at Rohini Court.
2. Counsel for the petitioner submits that the matrimonial home of the petitioner fell within the jurisdiction of Rohini Courts, Delhi. The petitioner left her matrimonial home in August, 2020 and moved to Preet Vihar. All the aforesaid cases were filed by her in February, 2021 before the competent courts having jurisdiction in Rohini Courts, Delhi. It is submitted that the petitioner is finding it inconvenient to appear before the Rohini Courts on account of her residing in Preet Vihar, Delhi, which is closer to Karkardooma Courts and therefore, seeks transfer of the aforementioned cases to the competent Courts in Karkardooma Courts.
3. Learned APP appearing on behalf of the State submits that as per the averments made in the FIR, the cause of action falls within the jurisdiction

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of Rohini Courts. He has drawn attention of the Court to Sub-Section (b) and (d) of Section 178 of the CrPC to submit that in the present case, Rohini Courts have the jurisdiction to entertain the present cases and the petitioner has duly chosen to invoke jurisdiction of these courts. He further submits that the complaint cases cannot be transferred solely on the basis of inconvenience caused to the petitioner.

4. Learned APP further submits that in the criminal case arising out of the FIR No. 642/2021, the charge sheet has already been filed and cognizance has been taken by the competent court in Rohini.

5. Counsel appearing on behalf of the respondent no.2 submits that the cases under Section 125 of the CrPC and under the DV Act are at an advanced stage before the competent Courts and the present case has been filed almost 30 months after the present cases have been initiated. In this regard, he places reliance on the judgment of the Supreme Court in ***Usha George v. Koshy George***, (2000) 10 SCC 95.

6. I have heard the counsel for the parties and perused the material on record.

7. At this stage, reference may be made to Section 178 of the CrPC:

“178. Place of inquiry or trial.—

(a) When it is uncertain in which of several local areas an offence was committed, or

(b) where an offence is committed partly in one local area and partly in another, or

(c) where an offence is a continuing one, and continues to be committed in more local areas than one, or

(d) where it consists of several acts done in different local areas,

it may be inquired into or tried by a Court having jurisdiction over any of such local areas.”

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8. In terms of the aforesaid provisions of law, it cannot be denied that the Rohini Courts have the jurisdiction to entertain all the aforesaid three cases. The petitioner, despite shifting to Preet Vihar in August, 2020, chose to file all the aforesaid cases in Rohini, being aware that Rohini Courts had the jurisdiction to entertain these cases.

9. As noted above, the cases under DV Act and under Section 125 of the CrPC are at an advance stage. Further, the charge sheet has already been filed in FIR No. 642/2021 and the competent court is seized with the matter.

10. In the present case, the transfer has been primarily sought on the ground that the Rohini Courts Complex is far away from the residence of the petitioner and Karkardooma Court is nearby. It is pertinent to note that both the Courts are within Delhi and it is not a case where the petitioner has to travel out of station for attending her cases. Furthermore, the petitioner has been pursuing these cases before the Rohini Court for almost two and a half years.

11. Undoubtedly, the convenience of the wife has to be seen while deciding the transfer of such cases, but it cannot be the only factor to be considered. As noted above, all three cases are at an advance stage, and transferring the same to another Court would not be in the interest of justice. In this regard, a reference may be made to the judgment of the Supreme Court in *Usha George* (Supra), wherein the Court refused to allow the transfer petition filed on behalf of the petitioner on the ground that the Family Court was already seized of the matter and eleven hearings were already over.

12. In view of the aforesaid and considering that the matters are at an advance stage, I am not inclined to transfer the aforesaid cases. However, in

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the interest of the minor child, any visitation that may be ordered by the Trial Court, shall be conducted in the premises of this Court.

13. Accordingly, the petitions stand disposed of.

AMIT BANSAL, J.

AUGUST 23, 2023

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