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

+ **CRL.REV.P. 203/2021 & CRL.M.A. 27013/2023**

SHIKHA LALL

.....Petitioner

Through: Mr.Adab Singh Kapoor and
Ms.Saptodwipa Sarkar, Advocates

versus

PRINCE AGARWAL

.....Respondent

Through: Ms.Shweta, Advocate (Through VC)

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

07.11.2024

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1. The present revision petition has been filed under Section 397 r/w 401 of Cr.PC. for setting aside order dated 10.02.2021 passed by learned ASJ, Shahdara District, Karkardooma, New Delhi in CA No. 83/2020 titled "*Shikha Lall v. Prince Agarwal & Ors.*". Vide order dated 10.02.2021 the learned ASJ had dismissed the appeal under Section 29 DV Act against the order dated 19.09.2020 passed by learned MM (Mahila Court), Shahdara wherein the learned MM had dismissed the complaint under Section 12 r/w 18,19,20 and 22 of DV Act.
2. Learned counsel for the petitioner submits that the marriage between the petitioner and respondent no.1 was solemnized on 28.12.2016 as per Arya Samaj rites and rituals at B-229, New Sanjay Amar Colony, Hedgewar Hospital, Vishwash Nagar, Shahdara, New Delhi and no child was born out of the said wedlock. Thereafter, it is submitted that



the parties started residing separately from 04.09.2017 and no maintenance has been paid by the respondent to the petitioner ever since.

3. Learned counsel further submits that the jurisdiction of the learned Trial Court was invoked on the basis of cause of action arising within the jurisdiction of the learned Trial Court wherein the incidents pertaining harassment, cruelty and demands of dowry took place. Learned counsel for the petitioner also submits that the DV complaint reflects sufficient incidents of domestic violence, cruelty and harassment against the petitioner. Furthermore, it is submitted that economic abuse was caused to the petitioner, within the jurisdiction of the learned Trial Court.
4. *Per Contra*, learned counsel for the respondent submitted that the marriage between the parties took place at Ghaziabad, UP as is also indicated in the Arya Samaj Marriage Certificate and therefore section 27 of DV Act does not confer jurisdiction to the courts of Delhi based on the place of solemnization of marriage.
5. Learned counsel submits that after the social marriage on 28.02.2016, the parties started residing together in a shared household at Oslo, Norway. It is also submitted that none of the parties either jointly or singly have resided in the jurisdiction of Karkardooma Court and therefore in absence of such domestic relationship, there is no possibility of cause of action arising in the territorial jurisdiction of the Karkardooma Court.
6. Vide order dated 19.09.2020, learned MM (Mahila Court)-03, KKD Court dismissed the complaint of the present petitioner under Section



12 DV Act and *inter alia* held as under:-

“In order to give jurisdiction on the ground of residence something more than a temporary stay is required. In the case in hand, there is no mention of the fact by the petitioner that she had ever resided in Delhi or that any overt act of cruelty or harassment has been caused to her in Delhi. Keeping the above facts and section 27 of DV Act into consideration, it can be said that the jurisdiction of the present matter does not lie within the precincts of this court, therefore present case is dismissed with liberty to the petitioner to file it in the proper court / competent court having jurisdiction.”

7. Furthermore, an appeal was filed under Section 29 DV Act against the order dated 19.09.2020 which was also dismissed by the learned ASJ whereby it was *inter alia* held as under:-

“...12. After considering the submissions of the parties, I do not find any force in the contention of Ld.Counsels for appellant that cause of action to file application/complaint under section 12 of the Act arose within the jurisdiction of Delhi Courts when admittedly, parties never resided in Delhi. In view of foregoing discussion, I do not find any illegality or impropriety in the impugned order passed by Ld.Trial Court. Accordingly appeal stands dismissed. Trial Court record be sent back alongwith a copy of this order. Appeal file be consigned to record room.”

8. The Protection of Women from Domestic Violence Act, 2005 referred to as Domestic Violence Act was enacted in 2005, primarily to provide for a remedy under the civil law which is intended to protect the women from being victims of Domestic Violence and to prevent the occurrence of Domestic Violence in the society. The intention of the legislature was to enact a wide and comprehensive law so as to



redress the grievances of any women who are or have been in a relationship with an abuser.

9. Domestic violence is an expression that includes abuse or threat or abuse that is physical, sexual, verbal, emotional or economic. Furthermore, it is also in the form of harassment by way of unlawful dowry demands from the woman and her relatives. The term “domestic violence” has also been categorically defined by Section 3 of the Act giving it a wide meaning. Chapter IV of the Domestic Violence Act provides procedure for obtaining orders of reliefs. The said chapter begins with Section 12 giving power to the aggrieved woman to file an application before the Magistrate and further expands on till Section 21 providing for custody orders. Section 17 provides right to reside in a shared household. Similarly, Section 18 and 19 provides for the protection orders and residence orders. Section 20 relates to monetary reliefs. Similarly, Section 21 pertains custody orders. Further, Section 23 also confers the power on the Magistrate to grant interim and *ex parte* orders.
10. The plea of the petitioner is that in view of Section 27 of the DV Act, the application made by the petitioner may be heard by the learned Trial Court and thus the impugned order dismissing the same may be set aside. *Per contra*, the respondent asserts that the learned Trial Court was correct in dismissing the complaint of the petitioner for want of jurisdiction.
11. Section 27 of the Act confers the jurisdiction on the Judicial Magistrate of first class or the Metropolitan Magistrate to grant protection order and other orders under this Act. Section 27 of the Act



is read as under:-

“27. Jurisdiction

(1) The Court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which

(a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or

(b) the respondent resides or carries on business or is employed; or

(c) the cause of action has arisen, shall be the competent Court to grant a protection order and other orders under this Act and to try offences under this Act.

(2) Any order made under this Act shall be enforceable throughout India.”

12. This Court in ***Sharad Kumar Pandey v. Mamta Pandey*** CRL.M.C.

4044/2009 while dealing with issue of jurisdiction in case of complaint made under the DV Act *inter alia* held that:

“8. From different provisions of this Act, it is apparent that the scheme of the Act provides that protection officer, service provider and police to help the aggrieved person in not only approaching the court for redressal but to ensure that the domestic violence is not further perpetuated and an aggrieved person gets shelter either in the shelter home or after the residence order in the shared household. Thus, the place of domestic violence and the place of respondent are two places which are the places of actions under the Act which the Magistrate can take and give directions to other bodies created under the Act. However, still the Legislature provided that the jurisdiction can be invoked by an aggrieved person on the basis of temporary residence. It seems that this provision has been made for such aggrieved person who has lost her family residence and is compelled to take residence, though temporarily, either with one of her relatives or with one of her friends at a place where the domestic violence was not committed or her matrimonial home was not there. Such



a woman can invoke jurisdiction of the court where she is compelled to reside in view of commission of domestic violence, this temporary residence must be one which an aggrieved person takes under the circumstances of domestic violence. It may also be there that after domestic violence; an employed aggrieved person decides to take job at some other place and has to shift her residence. Section 27 provides that the court where an aggrieved person carries on business or has employment also has jurisdiction....”

13.The Bombay High Court was faced with a similar issue as of the present case, in ***Afia Rasheed Khan v. Mazharuddin Ali Khan*** W.P. No. 4184/2021. The brief facts of the matter were that the marriage between the parties took place at Hyderabad and was also subjected to alleged domestic violence at Hyderabad. Pursuant to which the petitioner went to Mumbai and stayed in a hotel and subsequently filed a complaint under Section 12 of the Act after 28 days before the learned MM which was dismissed for want of jurisdiction.. The Bombay High Court *inter alia* held that the petitioner had a ‘casual visit’ to Mumbai and thus, no cause of action arose there, it seemed to be a visit just to acquire the jurisdiction of the courts of Mumbai. Therefore, it was *inter alia* held that there was no infirmity in the order of the learned MM wherein the complaint of the petitioner was dismissed for want of jurisdiction.

14.In the case at hand, as per the complaint filed under Section 12 of the DV Act, the marriage between respondent no.1 and the petitioner was solemnized on 28.12.2016 at Sunderpuri, near Mohan Gate, Ghaziabad, Uttar Pradesh. The marriage was later registered at the DC office, Nand Nagri, New Delhi 110093. The same was also



reiterated in the appeal filed under Section 29 of the Act. It is also pertinent to note that the aggrieved person/petitioner herein has not resided under the jurisdiction of this Court and is currently residing in Chandigarh and also works as a physiotherapist there.

15. At this juncture, it is pertinent to reproduce the relevant paragraphs from the complaint made under Section 12 by the petitioner/revisionist herein as under:-

“...7. The Complainant and Respondent No. 1 ‘s marriage was registered at the DC Office, Nand Nagri, New Delhi – 93, which falls within the local limits of this Hon’ble Court’s jurisdiction. Furthermore, a substantial portion of dowry and stridhan articles have been exchanged at the time of the registration of the marriage at the DC / Registrar’s office in Nand Nagri, New Delhi. Therefore, the cause of action has arisen within the territorial limits of this Hon’ble Court and this Hon’ble Court has the jurisdiction to entertain and try this DV Complaint.

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11.1. The marriage between Respondent No. 1 and the Complainant was a love marriage and was solemnized on 28/12/2016 as per Arya Samaj rites and rituals at Sunderpuri, Near Mohan Gate, Ghaziabad, U. P. The marriage was later registered at the DC office, Nand Nagri, New Delhi – 93 (hereinafter referred to as the “Registrar’s office”) on 02.01.2017. Later, the Complainant and Respondent No. 1 were socially engaged on 26.02.2017, and on 28/02/2017 the social wedding was conducted at Natraj Farm, Gokulpur, Garh Road, Meerut, in accordance with Hindu rites and ceremonies. There are no children born out of the wedlock.”

16. A perusal of the above clearly indicates that the parties have not resided in Delhi at any given point in time during the alleged incidents



for the cause of action to arise in the present jurisdiction. Thus, to state that due to the registration of marriage in New Delhi, the courts of Delhi would have jurisdiction to adjudicate the disputes of domestic violence between the present parties. There is no cause of action that arose within the local limits of the Courts of Delhi.

17.This Court is of the view that the concurrent findings of the two courts below, i.e. the court of learned MM and the court of learned ASJ is well reasoned. Therefore, this Court finds no reason to interfere with the orders dated 19.09.2020 and 10.02.2021.

18.The present petition along with all pending applications stands disposed of.

DINESH KUMAR SHARMA, J

NOVEMBER 7, 2024

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