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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CRL.M.C. 5875/2024, CRL.M.A. 22442/2024, CRL.M.A.
22443/2024, CRL.M.A. 22444/2024

SH PRAKASH NARAYANPetitioner
Through: Mr. A.C. David, Advocate.

versus

SMT DEEPA DEVI AND ANOTHERRespondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER
03.09.2024

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1. By way of present petition, the petitioner seeks to assail the order dated 03.06.2024 passed by Id. Special Judge (NDPS Act), Shahdara District, KKD, Delhi in CrI. A. 73/2024. In the said criminal appeal proceedings, the petitioner has assailed the order dated 14.02.2024 passed by the Ld. J.M., Mahila Court-02, Shahdara District, KKD, Delhi, whereby the petitioner's objection to the territorial jurisdiction of the Court came to be rejected.

2. Learned counsel for the petitioner submits that the petitioner has been arrayed as the respondent in the proceedings initiated by his wife under Section 12 of the D.V. Act. In the said proceedings, the petitioner on being summoned, took an objection that the respondent/complainant was residing at her parental home in District Almora, Uttarakhand, since October, 2017 and that the jurisdictional claim on the basis of the Lease Agreement was misleading. In support of his submissions, Id. counsel further contends that



while the petition seeking maintenance was filed on 15.01.2018, the said Lease Agreement came to be executed only a week earlier, i.e., on 08.01.2018, whereby the respondent had claimed herself to be a tenant at *E-167/E-182 (portion of 2nd floor) Street No.-03, West Vinod Nagar, Delhi 110092*. Reliance is placed on the allied proceedings pending between the parties under Section 498A IPC initiated by the respondent in District Almora, wherein, during her cross-examination conducted on 06.09.2019, she stated that she was residing with her parents since 2017. Further reliance is placed on the proceedings initiated by the respondent under Section 125 Cr.P.C. and pending before the concerned Court at Delhi, where, again in her cross-examination under those proceedings, she was confronted with the aforesaid cross-examination dated 06.09.2019, wherein she admitted her statement of residing with her parents since 2017 as correct. Learned counsel has also contended that the petitioner has initiated proceedings under Section 9 of the HMA, wherein summons were sent to the respondent's abovestated address at Vinod Nagar and the same remained unserved. In fact, as per the postal service dated 09.01.2019, the said summons could not be served on the respondent as no such person was found to be residing at the aforesaid address. Furthermore, learned counsel has placed reliance on the decisions of this Court in Tata Teleservices Limited & Anr. V. GTL Infrastructure Limited & Anr. reported as **2016 (155) DRJ 327** and Sharad Kumar Pandey v. Mamta Pandey reported as **2010 VII AD (DELHI) 849**.

Ld. counsel has also invited the attention of this Court to the proceedings dated 15.03.2018 in the present case before the learned Judicial Magistrate, wherein the respondent's statement was recorded that she has a



minor child who is suffering from various ailments and that she needs money for her treatment. She further stated that she was living at her parental home and was facing hardship for their maintenance.

3. The learned Judicial Magistrate and the Appellate Court have noted, the submissions made on behalf of the respondent/complainant that the territorial jurisdiction had been challenged by the petitioner only to delay the proceedings and to avoid payment of arrears, which had accumulated to the tune of Rs.10 lacs, as on the date of the impugned order. It was also noted that warrants of attachment had been issued and despite the same, the arrears remained unpaid. The interim maintenance order passed by the Id. Judicial Magistrate has also remained unchallenged.

4. At this stage, Id. counsel for the petitioner submits that the petitioner has been regularly paying the interim maintenance to the respondent.

Notably, the respondent/complainant has entered the witness box and has deposed in her examination-in-chief and is yet to be cross-examined. It is further noted that a similar objection as to the territorial jurisdiction was taken in the proceedings under Section 125 Cr.P.C., which came to be decided against the present petitioner.

5. Considering that the territorial jurisdiction of the Judicial Magistrate has been called in question while placing reliance on the earlier statements of the respondent/complainant as well as the aforementioned lease agreement placed on record, it is deemed best to leave the same to be tested in trial, where the petitioner would be at liberty to put all such previous statements to the respondent/complainant who will have the opportunity to explain the same.

6. In view of the aforesaid discussions, the present petition is dismissed



alongwith pending applications.

7. Needless to state that the observations made hereinabove are only for the disposal of the present petition and will not affect the outcome of the trial. The contentions are left open for the petitioner to urge before the concerned Trial Court.

MANOJ KUMAR OHRI, J

SEPTEMBER 3, 2024

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