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

+ **CRL.REV.P. 1311/2023 & CRL.M.A. 33359/2023**

PRIYANKAR BHARGAVAPetitioner
Through: Mr. Aman Usman, Adv.
with petitioner in person

versus

RITA BHARGAVARespondent
Through: Mr. Akshay Nautiyal, Ms.
Ayushi Yadav, Mr.
Dhirendra Kumar Nautiyal
& Ms. Lata Nautiyal,
Advs. with respondent in
person

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
18.07.2024

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1. The present petition is filed challenging the order dated 23.09.2023 (hereafter '**the impugned order**') passed by the learned Judge, Family Court-02, Shahdara District, Karkardooma Courts, Delhi in Mt. Case No.219/2022 (hereafter '**the impugned order**').

2. Mt. Case No.219/2022 was filed by the respondent under Section 125 of the Code of Criminal Procedure, 1973 ('**CrPC**') for grant of maintenance. It was contended that the marriage between the petitioner and the respondent was solemnized at Vaishali, Ghaziabad. The petitioner and the respondent cohabited with each other at the matrimonial house in Ghaziabad.

3. The respondent alleged torture upon her by the petitioner and his family members. It was alleged that the petitioner left the company of the respondent and went away to stay with another



woman with whom he was having an extra-marital affair.

4. The respondent claimed that at the time of filing the petition, she was residing at Dilshad Garden, Delhi, within the territorial jurisdiction of the learned Family Court at Karkardooma.

5. The petitioner filed an application seeking dismissal of the petition on the ground of territorial jurisdiction.

6. The learned Family Court by the impugned order has dismissed the application filed by the petitioner raising the issue of territorial jurisdiction which led to filing of the present petition.

7. The learned counsel for the petitioner submits that the respondent is, admittedly, staying in the matrimonial house which is located in Ghaziabad.

8. He submits that it is the case of the respondent herself that she sometimes resides with her mother in Delhi. He submits that the same would amount to 'casual stay' and would not confer any territorial jurisdiction on the Courts in Delhi.

9. He also vehemently contends that the children of the parties are staying in Ghaziabad and are studying in a school in Ghaziabad. He submits that, in such circumstances, the petition under Section 125 of the CrPC could not have been filed within the territorial jurisdiction of Delhi.

10. The learned counsel for the petitioner relies upon the judgment passed by the High Court of Madhya Pradesh in the case of *Nirman Sagar v. Smt. Monika Sagar Chaudhari and another : Criminal Revision No. 3060/2021*, to contend that the proceedings under Section 125 of the CrPC can be initiated in any district, where any of the party resides, even if temporarily so long as the residence is not casual. He submits that the



respondent is, admittedly, staying at a matrimonial house at Ghaziabad whereas for the purpose of territorial jurisdiction, the parents' address has been given where she occasionally visits.

11. The learned Family Court noted the arguments on behalf of the respondent that at the time of filing of the proceedings under Section 125 of the CrPC, she was residing with her mother at Dilshad Garden, Delhi. It was contended by the respondent that her mother is an old aged lady who requires regular care and the children of the parties, also at times, go to school from her mother's house at Dilshad Garden, Delhi, since the school though is in Ghaziabad, is near to the house of the mother in Dilshad Garden, Delhi.

12. The learned Family Judge held that it is possible that a person may reside in two houses.

13. The Hon'ble Apex Court in ***Darshan Kumari v. Surinder Kumar : 1995 Supp (4) SCC 137***, held that Section 126 of CrPC, for the purpose of conferring territorial jurisdiction, does not require that the applicant is a permanent resident of a place. Even a temporary residence of the aggrieved party confers territorial jurisdiction to the place of residence.

14. Specific averments have been made by the respondent that, at the time of filing of a petition, she was residing at Dilshad Garden, Delhi at her mother's house. It is not denied that the respondent is staying in her matrimonial house since the petitioner has allegedly deserted her and is not cohabiting with her.

15. The contention that the respondent is also staying with her mother who being an old aged lady requires care, holds merit.

16. The wife having an acrimonious relation with the husband and residing in matrimonial house can justifiably contend that



she is staying in her mother's house as well as her matrimonial house. She is permitted to maintain two houses, one being matrimonial and the other being maternal, at the same time. Stay of wife with her old, widow mother specially when the husband has deserted her can be a temporary stay but cannot be termed as a casual stay. When the specific averment is made that she was staying in Delhi with her mother at the time of filing of the petition, the same has to be accepted. It is not the case of the petitioner that the mother of the respondent does not stay in Delhi.

17. At the time of filing of the petition, the contention of the respondent of temporarily residing at her maternal house, is to betaken on a demurrer.

18. I, therefore, find no infirmity in the order passed by the learned Trial Court.

19. The petition is, therefore, dismissed.

AMIT MAHAJAN, J

JULY 18, 2024
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