



\$~62

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

+ **CRL.REV.P. 1257/2024**

MOHIT BHATIA

.....Petitioner

Through: Ms. Reena Singh & Ms.
Meena, Advs. with
petitioner in person.

versus

SHALINI BHATIA

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

29.10.2024

%

CRL.M.A. 32819/2024 (for exemption)

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.

CRL.REV.P. 1257/2024 & CRL.M.A. 32818/2024 (for stay)

3. The present petition is filed against the order dated 06.08.2024 (hereafter '**impugned order**') passed by the learned Additional Sessions Judge ('**ASJ**'), West, Delhi in CA No. 52/2024.

4. By the impugned order, the learned ASJ allowed the appeal filed by the respondent thereby restoring the petition filed by the respondent under Section 12 of the Protection of Women from Domestic Violence Act, 2005 ('**DV Act**') before the learned Trial Court, that is, CC No. 5551672/2016 titled *Shalini Bhatia v. Mohit Bhatia & Ors* to its original number and place.

CRL.REV.P. 1257/2024

Page 1 of 4



5. The petitioner is essentially aggrieved by the restoration of the petition filed by the respondent under Section 12 of the DV Act. The learned counsel for the petitioner submits that the undue harassment has been caused to the petitioner by the restoration of the petition.

6. She submits that the petition filed by the respondent under Section 12 of the DV Act was dismissed for non-prosecution by order dated 18.05.2022. She submits that an application filed by the respondent before the learned Trial Court seeking restoration was also dismissed by order dated 19.12.2023 because the restoration application itself was filed at a belated stage. She submits that since the respondent herself was not diligent in pursuing the matter, there is no reason why the restoration should have been allowed by the learned ASJ.

7. She submits that the respondent herself failed to inform about the change in her address, and prays that the restoration of the petition under the DV Act not be allowed.

8. In the present case, the learned MM *vide* order dated 19.12.2023 had dismissed the application filed by the respondent seeking restoration of the complaint on the ground that the application for restoration was filed at a belated stage. It was noted that it was for the respondent herself to pursue her case diligently. The learned ASJ *vide* impugned order allowed the appeal filed by the respondent seeking restoration of her petition under Section 12 of the DV Act.

9. The learned ASJ noted that the conduct of the respondent before the learned Trial Court had been that of a vigilant litigant, and that she had regularly been appearing in the matter except after the lockdown on account of the Covid-19 pandemic. It was noted that the learned Trial Court issued repeated court notices to



the respondent, and the order dated 18.05.2022 even recorded that the court notices sent to the respondent remained unserved.

10. It was noted that admittedly at the time of the filing of the petition under Section 12 of the DV Act, the respondent was residing on second floor of her matrimonial home in Patel Nagar, Delhi. It was noted that an eviction order was passed against the respondent *vide* order dated 06.07.2019 and the appeal against the said order was dismissed by this Court.

11. It was noted that thereafter, only three hearings before the learned Trial Court were conducted where the respondent could have informed about the change of her address since subsequently the courts were closed on account of the onset of Covid-19.

12. While this Court is in agreement with the contentions of the learned counsel for the petitioner that the respondent ought to have informed about the change in her address, the same, however, cannot be the only ground to allow the present petition. The learned ASJ, by allowing the appeal filed by the respondent thereby restoring the petition filed by the respondent under Section 12 of the DV Act has merely granted an opportunity to the respondent to present her case.

13. In that light, the learned ASJ rightly observed that though the respondent had been at fault in not informing about the change of her address, however, from a perusal of the record, it did not appear that the respondent was callous in her approach and had not diligently been pursuing the matter. For this reason, this Court does not find any infirmity in the order passed by the learned ASJ allowing the restoration of the petition under Section 12 of the DV Act filed by the respondent before the learned Trial Court to its original number and place.



14. No further orders are required to be passed in the matter.
15. The present petition is accordingly dismissed.

OCTOBER 29, 2024

AMIT MAHAJAN, J