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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 47/2025 & CRL.M.A. 427/2025, CRL.M.A. 8490/2025**
PUNEET ARORAPetitioner

Through: Ms. Ruchi Kohli, Senior Advocate
with Dr. Ankit Gupta and Ms. Srishti
Mishra, Advocates.

versus

KANIKA KHERA & ORS.Respondents

Through: Mr. Kunal Mittal, Mr. Mohit
Aggarwal, Mr. Sachin Aggarwal and
Ms. Rishika, Advocates for R-1.
Mr. Yasir Rauf Ansari, ASC with Mr.
Alok Sharma, Advocate for the State.
SI Sunit, PS: Jagat Puri.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
% **19.08.2025**

1. The present petition filed under Article 226 of the Constitution of India, 1950 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ seeks the following relief:

“A. Kindly be pleased allow the Writ Petition (Criminal) under the aegis of Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and be pleased to call for the records of the Criminal Complaint CT No. 14 of 2023 (CNR: DLSH020000512023) vide title Kanika Khera Vs Puneet Arora as pending before the Hon'ble Court of Judicial Magistrate (Shahdara District) and be pleased to address the following Questions of Law for challenging the vires of the Section 12 of the Protection of Women from Domestic Violence Act,

¹ “BNSS”



2005:-

a. Whether a Court of Judicial Magistrate has judicial competence to enquire and adjudicate the acts of Domestic Violence that has taken place outside the Territorial Sovereign Jurisdiction of the Republic of India under the provision of Section 12 of the Protection of Women from Domestic Violence Act, 2005?

B. Kindly be pleased allow the Writ Petition (Criminal) under the aegis of Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and be pleased to set aside (quash) the Criminal Complaint CT No. 14 of 2023 (CNR:DLSH020000512023) vide title Kanika Khara Vs Puneet Arora as pending before the Hon'ble Court of Judicial Magistrate (Shahdara District) as Hon'ble Court of Judicial Magistrate (Shahdara) does not have judicial competence to enquire and adjudicate domestic violence that has taken place outside the Territorial Sovereign Jurisdiction of the Republic of India."

2. The present dispute stems from a complaint dated 24th December, 2012 [CC No. 14/2023]² filed by Respondent No. 1 under Section 12 of the Protection of Women from Domestic Violence Act, 2005³ seeking several reliefs which include protection order under Section 18, residence order under Section 19, monetary relief under Section 20 for alleged destruction of property, medical expenses, physical and mental injury, as well as household expenses and compensation under Section 22 of the DV Act. In the said complaint, Respondent No. 1 alleged as follows:

2.1. The Petitioner and Respondent No. 1 were married on 18th February, 2022 at Ghaziabad, Uttar Pradesh, in accordance with Hindu rites and ceremonies. Within days of their wedding, on 27th February, 2022, the couple left for Ontario, Canada.

2.2. Soon after their relocation, disputes arose between the parties. The Petitioner allegedly engaged in frequent and late-night conversations with one Vandana, which gave rise to suspicion. When Respondent No. 1

² "the impugned complaint"

³ "the DV Act"



objected, the Petitioner responded with threats of expelling her from the house.

2.3. On 27th March, 2022, the Petitioner returned to India alone, allegedly leaving Respondent No. 1 in Canada without sufficient financial resources. Subsequently, the Petitioner, along with his mother, visited Respondent No. 1's parental home in India and demanded a car as well as the transfer of INR 25,00,000/- to the couple's joint bank account. While Respondent No. 1's father expressed his inability to comply, her mother transferred INR 13,32,519/- to the said joint account held in Canada. However, the said amount was withdrawn unilaterally by the Petitioner and the account was subsequently closed.

2.4. Respondent No. 1 also cited a particular incident of 20th June, 2022 when she discovered a concealed voice recording device installed in her bedroom and suspected her mobile phone was also compromised. Upon confrontation, the Petitioner allegedly twisted her arm and forcibly took possession of her passport and mobile phone, compelling her to lodge a police complaint in Canada for theft and mischief.

2.5. Respondent No. 1 further claims that her *stridhan* articles, valued at approximately INR 16,00,000/-, were unlawfully retained by the Petitioner's mother despite repeated demands for their return. She also asserts that the Petitioner failed to extend any financial support for her sustenance, thereby effectively deserting her.

2.6. Respondent No. 1 eventually managed to return to India on a temporary passport and the present proceedings were initiated.

2.7. The said complaint remains pending and are at the stage of recording of Complainant's evidence.



3. The Petitioner initially challenged the vires of Section 12 of the DV Act, however, by order dated 13th February, 2025, counsel for the Petitioner, on instructions did not press for the said relief and consequently, the challenge in the present petition was confined to the issue of jurisdiction of the Magistrate to inquire into and adjudicate allegations of domestic violence alleged to have occurred outside the territorial jurisdiction of India.

4. To buttress this contention, Petitioner had impressed upon this Court that since all the incidents of domestic violence had allegedly occurred in Canada beyond the jurisdiction of this Court, the Magistrate, by entertaining the petition under the DV Act, acted in violation of Section 188 of the Code of Criminal Procedure, 1973⁴. It is therefore contended that the proceedings arising from the impugned complaint stand vitiated for want of jurisdiction.

5. On 19th February, 2025, this Court, finding *prima facie* merit in the arguments advanced by the Petitioner, directed a stay on further proceedings in the impugned complaint. Subsequently, Respondent No. 1 filed CRL. M.A. 8490/2025 seeking vacation of stay.

ARGUMENTS ADVANCED

6. In support of the plea of lack of territorial jurisdiction, Ms. Ruchi Kohli, Senior Counsel for the Petitioner, advances the following submissions:

6.1. No allegation of domestic violence, whether physical, sexual, verbal, emotional or economic, pertains to any incident occurring within India. The parties were in India only for a period of 9 days, from 18th to 27th February, 2022, immediately after their marriage and no incident from this time has been cited. All the incidents forming the subject matter of the complaint are

⁴ “Cr.P.C”



stated to have taken place while the parties were residing in Ontario, Canada.

6.2. The DV Act does not contemplate extra-territorial operation. Section 1(2) read with Section 27(2) limits the DV Act's applicability to the territory of India. Consequently, the jurisdiction of a Magistrate under the DV Act is confined to incidents occurring within Indian territory. Neither Cr.P.C nor BNSS, which governs the proceedings under the DV Act by virtue of Section 28(1), confer any sovereign authority upon Magistrates to adjudicate on incidents of domestic violence alleged to have occurred beyond India.

6.3. Although proceedings under the DV Act are essentially civil in nature, they are conducted before a criminal court within the statutory framework of the Act. In such circumstances, particularly in view of Section 28 of the DV Act, which mandates that proceedings be governed by the provisions of the Cr.P.C, a complaint relating to incidents alleged to have occurred outside India, cannot be entertained de hors the provisions of the Cr.P.C.

6.4. The statutory scheme under Sections 9(b) and 10(2)(a) of the DV Act further supports this position. Protection Officers and Service Providers are mandated to operate within the local jurisdiction where the domestic violence is alleged to have occurred. If the incident has no nexus to the local area, there can be no factual foundation for a Domestic Incident Report⁵ apart from the complainant's statement. This undermines procedural fairness and prejudices the respondent. Additionally, under Section 9(b), copies of such incident reports are also forwarded to the Police Officer In-charge of the police station within the local limits in whose jurisdiction domestic

⁵ "DIR"



violence alleged to have committed. This framework would be rendered meaningless if domestic violence complaints are entertained for incidents which have occurred beyond the jurisdiction of the concerned Magistrate.

6.5. Section 28 of the DV Act, when read in conjunction with Section 188 Cr.P.C, makes it evident that proceedings must pertain to incidents of domestic violence occurring within the jurisdiction of the Court seized of the application. This is further reinforced by Section 1(2) of the DV Act, which categorically states that the Act extends to the whole of India, thereby excluding acts occurring outside the territorial limits of India.

6.6. The Petitioner and Respondent No.1 have already obtained a decree of divorce from the Canadian courts. In those proceedings, Respondent No. 1 unequivocally stated that no acts of domestic violence were committed by the Petitioner. Having taken such a position under oath before the competent Canadian forum, Respondent No. 1 is estopped from pursuing contrary allegations before the Magistrate under the DV Act.

7. Mr. Kunal Mittal, counsel for Respondent No. 1, controverts this position and submits as follows:

7.1. Section 27 of the DV Act expressly stipulates that the jurisdiction of the Magistrate is to be determined with reference to the local limits where the aggrieved person either permanently or temporarily resides. The expression “temporarily resides” indicates that even if, at the time of filing the complaint, the aggrieved person is only temporarily present within the territorial jurisdiction of the Court, such Court would nonetheless have jurisdiction. In the present case, Respondent No. 1’s permanent residence is at H.No. 120, Ram Nagar, Krishna Nagar, Delhi-110051, which squarely falls within the jurisdiction of the Magistrate. In addition, Section 27(1)(c)



confers jurisdiction on the basis of the place where the cause of action arises, which is distinct and independent of the place of residence of the aggrieved person.

7.2. Reliance is placed on the judgment of the Bombay High Court in ***Sumeet Ninave v. Himani Ninave***⁶ wherein it was observed that acts of domestic violence committed outside India can still be taken cognizance of by a Magistrate in India at any of the places stipulated under Section 27(1)(a) or (b). Thus, it is argued that jurisdiction under the DV Act must be determined in accordance with Section 27, rather than being restricted by the application of Section 188 Cr.P.C.

7.3. As regards the objection concerning the DIR, it is argued that the same is misconceived. The DV Act does not mandate that the aggrieved person must physically visit the police station or the Protection Officer to initiate proceedings; the recording of statements through virtual mode is also permissible. In fact, in the present case, a DIR has already been placed before the Magistrate which was counter-signed by Respondent No. 1 in person and she has also appeared before the Magistrate on multiple occasions, actively contesting the proceedings. Thus, the statutory requirement has been duly fulfilled.

ANALYSIS

8. The Court has considered the afore-noted facts and contentions. The limited question before this Court is whether, in terms of Section 27 of the DV Act, the Magistrate would have jurisdiction to entertain and adjudicate complaints where the alleged acts of domestic violence have occurred outside the territorial jurisdiction of India.

⁶ 2023 ALL MR (Cri) 2198



9. The DV Act is a welfare legislation designed to provide a broad range of remedies to an aggrieved woman. The statutory scheme is not confined to punitive measures alone, but encompasses an array of civil reliefs intended to secure the safety, dignity, and well-being of the aggrieved person. These include, *inter alia*, the right of a wife to reside in the shared household in Sections 17 read with Section 19, protection orders under Section 18 to safeguard against further acts of violence, residence orders under Section 19, monetary reliefs under Section 20, custody orders for children under Section 21, compensation and damages under Section 22, as well as interim and *ex parte* reliefs under Section 23.

10. These remedies underscores that the focus of the statute is on providing immediate and effective relief to the aggrieved woman within the jurisdiction where she seeks protection. Notably, the wife's right to reside in the shared household and the right to seek custody of her children are reliefs that may squarely fall within the jurisdiction of an Indian Court if the shared household or the child is in India, even if the alleged domestic violence itself took place abroad. This scheme is discernible from the jurisdictional provision contained in Section 27 of the DV Act cannot be read in a narrow or restrictive manner. For the sake of clarity, Section 27 is reproduced hereinbelow:

"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.”*

11. Section 27 of the DV Act makes explicit that jurisdiction of the Magistrate is not confined to the situs of the cause of action, which is the incidence of domestic violence. Three independent and disjunctive bases are provided: (a) the place where the aggrieved person resides (permanently or temporarily), carries on business, or is employed; (b) the place where the respondent resides, carries on business, or is employed; and (c) the place where the cause of action arises. Importantly, Section 27(1)(a) allows jurisdiction to be invoked solely on the ground of the aggrieved person’s residence, even temporary, independent of the cause of action. Thus, while the cause of action certainly constitutes one ground to invoke the jurisdiction of the Court, that is *de hors* the other ground contemplated under Section 27(1)(a) of the DV Act, namely, the residence of the aggrieved person.

12. Therefore, the Court is of the opinion that the broad sweep of remedies available under the DV Act, particularly those relating to residence, custody and compensation, which may have a direct nexus with India even if the alleged acts occurred abroad, necessitate a meaningful and purposive interpretation of Section 27. The provision, when read in its entirety, clearly envisages that jurisdiction is not limited to the situs of the alleged domestic violence, but extends to any Court within whose jurisdiction the aggrieved person resides.

13. In view of the foregoing, the objection raised by the Petitioner on the ground of territorial jurisdiction cannot be sustained. The legislative design clearly reflects that residence of the aggrieved person is itself a sufficient



basis to confer jurisdiction. The interpretation adopted by the High Court of Bombay in *Sumeet Ninave* reinforces this position by holding that acts of domestic violence committed outside India can still be taken cognizance of by a Magistrate in India by invoking Section 27(1)(a) or (b).

14. The Court also finds it apposite to address the argument premised on Section 188 Cr.P.C. Section 188 provides that when an offence is committed outside India by a citizen of India, such person may be dealt with in India as if the offence had been committed within India, subject to prior sanction of the Central Government. However, this provision is embedded within the framework of criminal trials and prosecutions. The reliefs contemplated under the DV Act, though enforceable through the criminal process, are largely civil in nature, directed at protection and welfare of the aggrieved person. The jurisdictional clause under Section 27 of the DV Act, being a special statutory provision, is therefore determinative of jurisdiction in such matters, and operates independently of the requirement of sanction under Section 188 Cr.P.C. To hold otherwise would unduly restrict the remedial scope of the DV Act and frustrate the very objective for which it was enacted.

15. Accordingly, the present petition is dismissed, along with pending applications.

16. The stay order dated 19th February, 2025 has been vacated.

17. It is clarified that the Court has not commented on the merits of the case and all rights and contentions of the parties are left open.

18. It is further clarified that the observations made hereinabove are confined for determining the jurisdiction of the Magistrate in entertaining the domestic violence complaint and shall not amount to any expression of



this Court on other cases or matters pending *inter se* the parties.

AUGUST 19, 2025
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SANJEEV NARULA, J