



2025:DHC:1330



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on: 28.02.2025*+ **CRL.REV.P. 384/2024 and CRL.M.A.8661/2024 (for Delay)****KOSTUBH DADHICHI ANSHU**PetitionerThrough: Mr. Peeyoosh Kalra, Mr.
Yashwant Singh Baghel
Advocates

versus

ADITYA JUNI WALRespondent

Through: Ms. Amisha Bejroi, Advocate

CORAM:**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J**

1. The petitioner is aggrieved by the order dated 20.11.2023 [hereafter '*the impugned order*'] passed by the learned Judge-02, Family Courts (South), Saket Courts, Delhi [hereafter '*Family Court*'] in M. No. 256/2021, whereby her petition filed under Section 125 of the Cr.P.C. was dismissed on the ground of lack of jurisdiction. The petitioner seeks to assail the said order by way of this revision petition filed under Sections 397/401 of the Code of Criminal Procedure, 1973 [hereafter '*Cr.P.C.*'].

2. Brief facts of the case, as discernible from the material placed on record by either side, are that both the petitioner and the



respondent were born and brought up in Jaipur, Rajasthan. Their marriage was solemnized at Arya Samaj Mandir, Ghaziabad, Uttar Pradesh. This marriage, as per petitioner, was solemnized in February, 2019, whereas the respondent claims that it was solemnized in April, 2019. The marriage was also registered in Ghaziabad. Eventually, another marriage ceremony, for the purpose of performing certain Hindu rites and rituals, took place on 10.07.2019 in Jaipur, Rajasthan. The petitioner had thereafter joined her matrimonial home at Jaipur, and had lived with the respondent for about four months. In November, 2019, the petitioner had left her matrimonial home and returned to her parental home, which was also in Jaipur. The petitioner asserts that she was harassed by the respondent and his parents/family members, *inter alia*, for demand of dowry and thrown out of the matrimonial home. The petitioner had then initiated divorce proceedings, in the concerned Court at Jaipur, Rajasthan.

3. It is the petitioner's case that the family of the respondent is very influential and they had used every possible means to harass the petitioner, including filing false cases and getting FIRs registered against her, in order to harass her and her family members. To save herself from the actions of the respondent, the petitioner had shifted to Delhi and had started residing in a rented accommodation as a paying guest. On 16.08.2021, the petitioner had filed the petition under Section 125 of the Cr.P.C. seeking maintenance from the respondent. Reply to the same was filed by the respondent; followed



by an application seeking dismissal of the said petition on the ground of lack of territorial jurisdiction.

4. On 20.11.2023, the learned Family Court dismissed the petition under Section 125 of the Cr.P.C. on the ground of lack of territorial jurisdiction, and granted liberty to the petitioner to approach the court having appropriate territorial jurisdiction. The impugned order dated 20.11.2023 is set out below:

“ Ld counsel for respondent has argued that territorial jurisdiction of this court is not made out as neither of the parties are residing in Delhi nor after marriage have ever resided together in Delhi.

Marriage was solemnized in Ghaziabad, UP and marriage reception took place at Rajasthan only. Ld counsel for respondent has also placed on record the certified copy of divorce proceedings pending before the Jaipur, Rajasthan Court wherein the petitioner herein has filed reply. In the affidavit filed alongwith reply her address is stated to be that of District Jaipur, Rajasthan only.

Ld counsel for petitioner has submits that the petitioner is not feeling safe in Jaipur, therefore, she shifted herself in Delhi.

In order to make out the territorial jurisdiction of this court. she has placed on record copy of lease deed dated 20.10.2022. as per which she has taken a house on rent at Chattarpur Extension, New Delhi and monthly rent is stated to be Rs. 15.000/-. There is no rent receipt with regard to rent paid. Though, one examination admit card has been filed on record to show that the petitioner is appearing for exam in Delhi but that cannot be construed as the petitioner being residing in Delhi. The said admit card is simply shows that petitioner shall appear for examination in Delhi.

In these circumstances, territorial jurisdiction of this court is not made out by any means.

Accordingly, petition is dismissed for lack to territorial jurisdiction of this court.



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However, petitioner is at liberty to file a fresh petition under section 125 Cr.PC before the court having appropriate territorial jurisdiction.”

5. The learned counsel for the petitioner argued that the petitioner had categorically stated in her petition under Section 125 of the Cr.P.C. that she was residing in Delhi as a paying guest at B-322, Chhatarpur Extension, New Delhi. She had placed on record a copy of the paying guest agreement dated 11.08.2021, along with the memo of parties, which reflected her permanent address as that of her parents in Jaipur and her present address in Delhi. Subsequently, on 20.10.2022, she entered into a rent agreement for a room with an attached bathroom and kitchen in the same property, further evidencing her continuous residence in Delhi. It was contended that despite these documents, the learned Family Court erroneously relied on the divorce proceedings pending in Jaipur, wherein the petitioner’s affidavit mentioned her parental home address, even though she had never disputed the fact that her parents resided in Jaipur. It was contended by the learned counsel for the petitioner that the learned Family Court overlooked the documentary evidence establishing her residence in Delhi, including her lease deed and the admission card she received at her Delhi address for an examination. The learned Family Court dismissed these documents on the ground that no rent receipts were placed on record, which, it is argued, was an incorrect approach, as the existence of a lease deed itself was sufficient to prove her residence. The petitioner had shifted to Delhi as she did not



feel safe in Jaipur, and this aspect was entirely ignored while deciding the issue of territorial jurisdiction.

6. It was further contended that the learned Family Court took an unduly technical view regarding jurisdiction and failed to appreciate that, as per Section 126(1)(b) of the Cr.P.C., proceedings under Section 125 of the Cr.P.C. can be initiated in any district where the 'wife resides'. It was argued that the Hon'ble Supreme Court and this Court have consistently held that such provisions must be construed liberally to achieve their intended purpose. Thus, it was submitted that the learned Family Court has failed to consider the settled legal position that the residence of the wife at the time of filing the petition determines jurisdiction, and in the present case, there was sufficient material to establish that the petitioner was residing in Delhi when she had filed the petition. In view of the above, it is prayed that the impugned order of the learned Family Court be set aside.

7. *On the other hand*, the learned counsel for the respondent argued that the petitioner herein had initially stated in her complaint before the CAW Cell, Saket, on 30.03.2021 that she was a resident of Jaipur. However, to bring the present proceedings within the jurisdiction of courts in Delhi, she subsequently executed a PG cum Rent Agreement; but the timeline of this agreement raises doubts about its authenticity, as the stamp paper was purchased on 11.08.2021, the agreement was executed on 13.08.2021, and was notarized on 16.08.2021, i.e. the same day the petition under Section 125 of the Cr.P.C. was filed. It was contended that the agreement



itself indicates that no tenancy rights were granted to the petitioner, nor did she have independent access to the premises, showing that she was not actually residing at the alleged rented accommodation. It was further contended that the petitioner later attempted to rectify these inconsistencies by executing a second rent agreement on 20.10.2022, with the same address but a different landlord. In this regard, it was pointed out that the first agreement listed one Mr. Amarjeet as the absolute owner, while the second agreement named Smt. Usha Rawat as the owner of the same property. Moreover, the second rent agreement commenced on 20.10.2022, while the petition under Section 125 of the Cr.P.C. was filed much earlier on 16.08.2021, and thus, the said agreement cannot be relied upon to establish territorial jurisdiction. It was submitted that jurisdiction must be determined at the time of filing the petition, and the manner in which these agreements were executed suggests that the petitioner never intended to genuinely reside at the given address in Delhi.

8. The learned counsel for the respondent also relied on the petitioner's own admission in her reply before the court in Jaipur in the divorce proceedings, wherein she had stated that she had been residing in Jaipur both before and after marriage. The affidavit accompanying this reply also mentioned her address in Jaipur, while making no reference to her alleged residence in Delhi. It was thus argued that the learned Family Court rightly referred to the certified copies of the Jaipur's court proceedings while dismissing her petition. It was also pointed out that a case filed under Protection of



Women from Domestic Violence Act, 2005 filed by the petitioner before the Saket Courts was also dismissed by the learned the Mahila Court on the grounds of lack of territorial jurisdiction, by way of a detailed and well-reasoned order, which has never been challenged by the petitioner. Thus, it is submitted that the impugned order suffers from no infirmity and therefore, the present petition be dismissed.

9. This Court has **heard** arguments advanced by the learned counsel for the parties and has perused the material placed on record.

10. At the outset, this Court takes note of certain facts of the case which are not in dispute. Undisputedly, the marriage between the parties was solemnized as well as registered in Ghaziabad, Uttar Pradesh. The marriage reception had thereafter taken place in Jaipur, Rajasthan. After marriage, the parties were also living in Jaipur in the matrimonial home. It is also otherwise clear from records that both the parties were born and brought up in Jaipur. Concededly, the petitioner herself had also filed a divorce case before the concerned Court in Jaipur, Rajasthan, after she had left her matrimonial home within a few months of her marriage and had started living with her parents in Jaipur only.

11. The sole ground on which the petitioner seeks to sustain her petition filed under Section 125 of the Cr.P.C. is that she had shifted to Delhi and had started residing in a rented accommodation as a paying guest in Chhatarpur, Delhi, and since she was residing in



Delhi, the courts in Delhi had the jurisdiction to adjudicate her petition filed under Section 125 of the Cr.P.C. However, the said petition was dismissed by the learned Family Court on the ground of lack of territorial jurisdiction, and in this Court's opinion, rightly so.

12. In this regard, it is material to note that the impugned order clearly records that though a Rent Agreement dated 20.10.2022 was placed on record, as per which the petitioner had taken a house on rent @ Rs.15,000/- per month at Chattarpur Extension, Delhi, no rent receipt was placed before the learned Family Court with regard to the rent paid by the petitioner. The learned Family Court also observed that the alleged examination admit card, which had been filed on record by the petitioner, only reflected that the petitioner was appearing for an exam in Delhi, but the same could not be construed as a proof of petitioner being a resident of Delhi.

13. This Court's attention was also drawn to the fact that the petitioner had placed reliance upon two such rent agreements, in respect of the same property. The first agreement which was initially filed alongwith the petition under Section 125 of the Cr.P.C., was a 'Paying Guest-cum-Rent Agreement' dated 13.08.2021. Insofar as the said Agreement is concerned, the same discloses the period of tenancy from 01.04.2021 to 31.03.2023. However, the stamp paper for the same was purchased only on 11.08.2021, the Agreement was executed on 13.08.2021, and was attested by Notary on 16/17.08.2021; whereas the petition under



Section 125 of the Cr.P.C. was also filed on the same day i.e. 16/17.08.2021. It is also material to note that the petitioner thereafter relied on another Rent Agreement dated 20.10.2022, executed in respect of the same property, but by a different owner. Surprisingly, *qua* the same property, while agreement dated 13.08.2021 had been executed for a period 01.04.2021 to 31.03.2023, it is not clear as to why there was an occasion to enter into another rent agreement *qua* the said property from 20.10.2022 to 19.09.2023, i.e. before expiry of the rent agreement dated 13.08.2021.

14. Further, the first agreement was executed by Sh. Amarjeet as the absolute owner of the property, whereas the second agreement was executed by Smt. Usha Rawat as the absolute owner. However, in the memo of parties of the present petition before this Court, it has been mentioned that Sh. Amarjeet is the owner of the property. Admittedly, no rent receipt or any other document with respect to payment of rent has been placed on record, till date, by the petitioner to buttress her claim that she has been residing at the said property.

15. Moreover, this Court's attention was also invited to an order dated 15.03.2024 passed by learned Mahila Court, Saket Courts (South) whereby the petitioner's application under PWDV Act was also dismissed on the ground of lack to territorial jurisdiction, by way of a detailed order, which has not been challenged by the petitioner till date. In the said order, the learned Mahila Court had observed that the petitioner herein had already invoked jurisdiction of the Family



Court in Jaipur for divorce proceedings, claiming to be residing within the jurisdiction of that court and in those proceedings, she had submitted on an Affidavit that she was residing in Jaipur. The learned Mahila Court also noted that though the petitioner claimed that she was forced to take up shelter in Delhi as her husband and his family members had filed several false complaints against her in Jaipur, not a single complaint allegedly filed by them against her had been placed on record; and therefore, it appeared that the petitioner had falsely engineered jurisdiction, just to cause inconvenience to the respondent. In the present petition also, no complaint(s), allegedly filed by the respondent against the petitioner, has been placed on record to show that she was being harassed in Jaipur, due to which she had to take shelter in Delhi.

16. As observed by the Coordinate Bench in case of ***Sachin Gupta v. Rachana Gupta***: 2019 (257) DLT 87, a residence temporarily acquired solely for conferring jurisdiction would not satisfy the requirements of Section 126(1) of the Cr.P.C. In the present case, it is evident that the petitioner has failed to establish her *bona fide* residence in Delhi at the time of filing the petition under Section 125 of the Cr.P.C. The inconsistencies in the rent agreements, absence of any rent receipts, and contradictions in her submissions before different courts makes her claim of residing in Delhi suspicious and unsustainable in law.

17. Accordingly, this Court finds no infirmity in the impugned



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order of the learned Family Court dismissing the petition under Section 125 of the Cr.P.C. for lack of territorial jurisdiction, and the same is upheld.

18. In these circumstances, the petitioner will be at liberty to file a petition under Section 125 of the Cr.P.C. afresh before the court having appropriate territorial jurisdiction.

19. The present petition is dismissed alongwith pending application.

20. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

FEBRUARY 28, 2025/ns