



\$~34

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **TR.P.(CRL.) 83/2024**
MEHIMA NANDA & ANR.Petitioners
Through: **Mr. Ambuj Tiwari and Mr. Arjun**
Nagrath, Advocates.
versus

AMRITPAL NANDA & ORS.Respondents
Through: **Mr. Rushabh Aggarwal, Ms. Tanya**
Aggarwal and Mr. J. Singh Bhatia,
Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
04.03.2025

%

1. The present petition under Section 447 of Bharatiya Nagarik Suraksha Sanhita, 2023¹ (earlier Section 407 of the Code of Criminal Procedure, 1973²), seeks transfer of CT. Case. No. 247/2022 filed by the Petitioners under the provisions of the Protection of Women from Domestic Violence Act, 2005³, which is currently pending adjudication before the Court of Metropolitan Magistrate, Mahila Court, South-East District, Saket, New Delhi to the Metropolitan Magistrate, South District, Saket, New Delhi.
2. Briefly stated, the facts which led to the filing of the present petition are that Petitioner No. 1 got married to Late Shri Sukhpreet Singh Nanda on 2nd April, 2010. From their union, a daughter (Petitioner No. 2 herein) was born. The Petitioner No. 1 submits that after her marriage, she resided in her matrimonial home with her husband and the Respondents – i.e., her mother-

¹ “BNSS”

² “CrPC”

³ “DV Act”



in-law, brother-in-law and sister-in-law. Unfortunately, on 3rd May, 2021, Petitioner No. 1's husband - Shri Sukhpreet Singh Nanda deceased. Petitioner No. 1 alleges that the Respondents collectively subjected her to domestic violence including physical, verbal, emotional and economic abuse, financial exploitation, parent alienation and social isolation after her marriage to Late Shri Sukhpreet Singh Nanda and this behaviour escalated after the demise of her husband. She also alleges that after her husband's demise, the Respondents asked her to move to her aunt's house and thereafter denied both her and her daughter entry into the matrimonial home on one pretext or another.

3. In this background, Petitioner No. 1 preferred a complaint under the provisions of the DV Act against the Respondents being CT. Case. No. 247/2022, seeking inter-alia the right of residence in the shared household under Section 17 of the Act.

4. In the said DV complaint, the Respondents raised an objection regarding the territorial jurisdiction, this has been noted in the order dated 20th October, 2023 passed by the Mahila Court, South-East District, Saket, to the following effect:

“Matter is fixed today for filing reply on behalf of respondents and filing of income affidavits of the parties.

Ld. counsel for respondent has challenged the jurisdiction invoked stating the respondents do not reside in the jurisdiction of this Court and even complainant was not residing in the jurisdiction of this Court at the time of filing of the present petition. He has further argued that no cause of action arose within the jurisdiction of this Court. Ld. counsel has also argued that in the partition suit before H'ble Delhi High Court, interim reliefs have been granted to the complainant however he has mentioned that complainant has given different address on affidavit before H'ble Delhi High Court and has given different addresses in this Court. He has lastly stated that replies are ready on



behalf of respondents but are not being filed due to different addresses given by the complainant on oath.

Ld. counsel for complainant has pressed for interim reliefs but same is heavily opposed by the other side stating that the Court does not have jurisdiction to grant those in the present matter.

Record perused.

Present petition under DV Act was filed on 28.02.2022 wherein Ld. Predecessor has observed that complainant resides at South Extension Part-2 which is not within the jurisdiction of this Court. On 02.03.2022, complainant is not present in Court but Ld. counsel for complainant has filed an affidavit of her uncle, Sh Jaswinder Singh Bakshi wherein he vaguely stated that complainant has been residing with him at C-147, Defence Colony New Delhi. The affidavit did not mention since when the complainant has been residing with him and where the matrimonial house is located. In fact, white fluid has been put next the matrimonial house and the left blank.

Complainant has been questioned in open Court about her duration of stay at the matrimonial house. She has stated that she had resided with the respondents since the time of her marriage till May 2021 when she was deceitfully asked to leave from the matrimonial house. Ld. counsel for respondents has objected to the same and stated that complainant left the matrimonial house voluntarily and out of her own accord.

*Further, complainant has been questioned in open Court about her residence after she exited from the matrimonial house. She has stated in open Court that she resided for approximately 3-4 month ie **till September 2021** with her uncle at Defence Colony and thereafter shifted to a different place. Present petition was filed in **February 2022** and affidavit of her uncle is dated **15.02.2022**. As per submissions of the complainant in open Court, she did not reside within the territorial jurisdiction of this Court, at the time of filing of the present petition and even thereafter. The matrimonial house and residence of respondents also does not fall within the territorial jurisdiction of this Court. Husband of the complainant is no more. This Court has empathy towards her circumstances but reliefs, even interim, can only be granted once this Court has territorial jurisdiction to grant those reliefs. One opportunity is being given to the complainant to establish the jurisdiction of this Court on the NDOH.*

Re-list on 02.04.2024."



5. In light of the aforementioned objection raised by the Respondents, the Petitioners have preferred the instant petition seeking transfer of the said DV case to the Court having territorial jurisdiction – i.e., Metropolitan Magistrate, South District, Saket, New Delhi.

6. Counsel for Respondents strongly objects to the maintainability of the present petition. He submits that the Petitioners cannot invoke the jurisdiction of this Court under Section 447 of the BNSS to seek a transfer of the compliant case since the original complaint was itself a nullity on account of the error of territorial jurisdiction, which cannot be cured by filing the present petition.

7. The Court has considered the objections raised by the Respondents but finds no merit since it is only due to the objection of territorial jurisdiction raised by the Respondents in the DV complaint case, that the Petitioners have filed the present petition seeking transfer of the said case from one district to the district where the Petitioners ought to have filed the complaint.

8. Thus, in light of the foregoing, the present petition is allowed and CT. Case. No. 247/2022 stands transferred to Metropolitan Magistrate, South District, Saket, New Delhi.

9. With the above directions, the petition is disposed of.

10. Copy of the order be sent to the concerned courts for necessary compliance.

SANJEEV NARULA, J

MARCH 4, 2025/as