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

+ CM(M) 2318/2025 & CM APPL. 75191/2025, CM APPL. 75192/2025

DIVYA AHUJA

.....Petitioner

Through: Mr. Jai Sahai Endlaw and Mr. Ashutosh Rana, Advocates.

versus

PRANAV AHUJA

.....Respondent

Through: Mr. Prashant Mendiratta, Mr. Sanchit Saini, Ms. Vaishnavi Saxena, Advocates.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

01.12.2025

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1. By virtue of the present petition, petitioner seeks setting aside the order dated 22.09.2025 (*impugned order*) passed by the learned Family Court, North District, Rohini Courts, Delhi (*learned Family Court*) in *HMA No. 1232/2024* titled *Pranav Ahuja vs Divya Ahuja*, whereby the application moved under *Section 10(3)* of the Family Courts Act, 1984, (*FC Act*) for calling the Call Details Records (*CDR*) by the respondent had been allowed by the learned Family Court.

2. In a nutshell, the petitioner's case is that the respondent had moved an application under *Order VI rule 17* of the Code of Civil Procedure, 1908 (*CPC*) for amending his Divorce Petition i.e. *Section 13(1)(ia)* of the Hindu Marriage Act, 1955 (*HMA*) for including the ground of adultery and another application under *Section 10(3)* of the FC Act read with



Section 151 of the CPC for calling the CDR and location of the petitioner.

3. As per records, and it is an *admitted* case of the parties that although the application under *Order VI rule 17* of the CPC was pending and the assertions *qua* the third party i.e., one Mr. Pracheen Chauhan, with whom the petitioner has been portrayed to be an adulterer, have not been incorporated. As such, there are no averments *qua* him therein at all. In any event, that he was not arrayed as a party is also not in dispute.

4. In fact, learned counsel for the petitioner, drawing the attention of the Court to *paragraph 5*, of an earlier similar application made under *Order XVI* of the CPC read with *Section 14* of the FC Act in the matter being H.M.A. No. 443/ 2024 entitled '***Divya Ahuja vs. Pranav Ahuja***', also *inter se* the very same parties before the learned Family Court, submits that though it was the case of the respondent therein that the petitioner had been in constant touch with the said Mr. Pracheen Chauhan during her stay with the respondent and even after leaving her matrimonial home. He, however submits that in the application under *Section 10(3)* of the FC Act moved by the respondent now, out of which the impugned order arises, the respondent is guilty of having made contrary averments as under: -

“4. That the preservation of the aforesaid call detail records of the Respondent/wife and the Proposed Respondent No.2 as the Petitioner has now come to know some facts which are extremely vital for adjudication of the present divorce petition as the Petitioner has realised that the Respondent/Wife has been having an extramarital affair with one Pracheen Chauhan, S/o Mr. S.S. Chauhan, Rio Flat No.1307, Tower C, Omkar Alta Monte, Malad East, Kokanipada, Mumbai, Maharashtra - 400 097, having Mobile No.9820228667.



xxx xxx xxx

6. That the Petitioner has come to know that the Respondent/ wife has had adulterous relationship with the said proposed Respondent No.2 wherein she alongwith said proposed Respondent No.2 went and stayed during their visit in the same room at Little Cove Nature Resort, Nasik on the intervening night of 16th - 17th October, 2024. The Respondent/wife has also lived with the said proposed Respondent No.2 in his flat in Malad East, Mumbai.”

5. Issue notice.

6. Learned counsel appearing for the respondent accepts notice.

7. At the outset, learned counsel for the respondent, relying upon the decisions of Delhi High Court in **Tanvi Chaturvedi vs. Smita Shrivastava & Anr:** MAT. APP. (F.C.) 251/2025, **Sonia Mehra vs. Gautam Mehra:** CM (M) 2301/2024, **Sachin Arora vs. Manju Arora:** CM (M) 64/2023 and **Deepti Kapur v. Kunal Jhulka:** AIR 2020 DEL 156, submits that the present petition is *per se* not maintainable since under similar circumstances, this Court has been pleased to give concrete findings *qua* the aspect of CDR. He also submits that reliance placed upon *paragraph(s)* 4 to 6 of the aforesaid application is misplaced in view of the contents of *paragraph(s)* 9 to 11 of the said application.

8. This Court has heard both learned counsel for the parties at sufficient length and has also gone through the documents on record.

9. In the considered opinion of this Court, the provisions of the FC Act, especially those of *Section(s)* 10, 12 and/ or 14 therein, can be taken recourse to by any party, however, against only those who are already impleaded as parties before the learned Family Court so that there is a *lis*



between them therein. Particularly, since there have to be some assertions/ averments/ pleadings *qua* the said party, who is more than a rank outsider/ third party. In case any application of the present nature is allowed by the learned Family Court, then the whole purpose of a matrimonial proceeding *inter se* the husband and the wife only will be defeated. If the situation is permitted, it will be open to the learned Family Court to conduct a roving enquiry against anyone, be it a third party, and/ or a rank outsider who is not even a party to the *lis* in the proceedings. At the end of the day, the learned Family Court is not dealing with a Public Interest Litigation and the orders passed therein are *judgment in 'personam'* rather than a *judgment in 'rem'*.

10. Considering the aforesaid, as also, since the learned Family Court has allowed the said application under *Section 10(3)* of the FC Act during the pendency, and without allowing the application under *Order VI rule 17* of the CPC, the impugned order being *pre-mature* is liable to be set aside. As such, the present petition is allowed.

11. In view thereof, the reliance upon ***Tanvi Chaturvedi (supra)***, ***Sonia Mehra vs. Gautam Mehra (supra)***, ***Sachin Arora (supra)*** and ***Deepti Kapur v. Kunal Jhulka (supra)*** need not be dwelled into as the same were passed under different facts and circumstances, primarily, since there were assertions/ averments/ pleadings *qua* the person whose CDR were called for and allowed.

12. At this stage, in the interest of justice and since a matrimonial proceeding *inter se* the parties is involved, learned counsel for the petitioner seeks, and is granted, a period of *three weeks* for filing reply to both the applications under *Section 10(3)* of the FC Act as also *Order VI*



rule 17 of the CPC before the learned Family Court. In turn, learned counsel for the respondent also seeks, and is granted, a period of *two weeks* thereafter for filing rejoinder to both the replies of the petitioner before the learned Family Court.

13. In view of the above directions, the present petition along with the pending application(s) is disposed of.

SAURABH BANERJEE, J.

DECEMBER 01, 2025/NA