



\$~61

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

% *Date of decision: 08th May, 2025*

+ CRL.M.C. 2318/2021, CRL.M.A. 15407/2021, CRL.M.A. 16056/2021

DHEERAJ ARORAPetitioner

Through: Petitioner through VC

Versus

PARINEY KHANNARespondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. Petition under Section 482 Cr.P.C. has been filed by the Petitioner seeking quashing of Complaint Case No. 16857/2018 filed by the Respondent under Sections 1(2)/2(s)/5/8(1)/9(1) (b)/12 (1)/12(3), 13(1) and 27 of the Protection of Women from Domestic Violence Act, 2005 (*henceforth referred to as 'DV Act'*) and Rule 2(b)/4(1)/5(1)/5(1) Form No. IV of the Protection of Women from Domestic Violence Rules.
2. *Briefly stated*, on the Complaint filed by the Respondent, the learned Metropolitan Magistrate *vide* Order dated 15.10.2018 directed the Protection Officer of New Delhi to file DIR and summons were issued to Petitioner.
3. It is submitted that the summons were issued by overlooking Section 1(2) of DV Act which states that the Act does not extend to the State of Jammu and Kashmir. The Protection Officer, New Delhi, without



conducting any inquiry at the place of occurrence of the alleged domestic violence, submitted the DIR on 30.11.2018 against the Petitioner as well as against Respondents No.2 & 3 who are residents of Amritsar, Punjab.

4. The Petitioner filed an Application dated 15.01.2021 seeking discharge of himself as well as of Respondents No.2 & 3. He annexed the documents to show that the Complainant had worked as Deputy Manager, SBI, Kharar Branch and had lived in a separate household allotted by the Bank during the period from 11.10.2016 to 12.02.2017. The Petitioner had sought discharge on the ground that *no act of domestic violence* had been committed in Delhi.

5. It was submitted that the Complainant in her Reply filed on 17.04.2021, has admitted that she had not been living with the Petitioner and Respondents No.2 & 3 in shared household since 11.10.2016 to 12.02.2017. If she was not residing, where was the question of her being threatened or harassed or subjected to domestic violence at Jammu, when she was not living with Petitioner during this period.

6. In view of Rule 8 (1) (2) Form No. 4 under Rule 8 (i) (ii), the Complainant could not be said to have faced domestic violence at the end of the Petitioner herein and thereby, the Complaint was not maintainable and the Petitioner was entitled to be discharged *for want of jurisdiction under Section 1 (2) of DV Act*.

7. It is further asserted that the matrimonial home was in Jammu and DV Act does not extend to the State of Jammu and Kashmir, and thus, the Court in Delhi did not have the Inherent jurisdiction to entertain the present Petition.



8. The next contention is that Mr. Prakash Chandr, Advocate, without filing any *vakalatama* represented the case of the Complaint, which amounts to abuse of the process of the Court and grave injustice was caused to the Petitioner and Respondents No.2 & 3.

9. It is asserted that despite objections to the maintainability of the Petition itself and the legal objections, Complaint has not been dismissed the trial is being continued by the learned Metropolitan Magistrate.

10. The quashing of the Complaint has also been sought on the ground that this Court has no territorial jurisdiction. The Protection Officer has submitted a false DIR Report without any enquiry of any domestic violence which had taken place in Delhi. Mr. Prakash Chandr, Advocate has been permitted to represent the case of the Complainant without filing *Vakalaatama*. Hence, the Complaint deserves to be dismissed.

11. ***The Respondent, in her detailed Reply***, has taken a preliminary objection that the Application of discharge filed by the Petitioner on identical grounds, already stands dismissed by a learned MM vide detailed Order dated 19.12.2019 and by merely changing the *nomenclature* and the title of the Petition, the Petitioner has tried to re- agitate the same issues, which amounts to gross abuse of process of the Court.

12. On merits, the Respondent/Complainant has denied that the Petition under Section 12 of DV Act was only for the incidents of domestic violence which had taken place in the shared household at Jammu during the period 11.10.2010 to 12.02.2017. It is submitted that domestic violence was committed by the Petitioner and her parents at different places, where they



lived with the Respondents and for the whole period from 01.01.2016 till the Petitioner refused her entry in the matrimonial home on 12.01.2018.

13. It is further submitted that Respondent was residing at Vasant Vihar at the time of filing of the Petition. Section 27 of Domestic Violence Act permits filing of Complaint within the jurisdiction of Vasant Vihar and thus, the Protection Officer New Delhi had the jurisdiction to file the DIR, which has been rightly directed to be submitted by the Learned Trial Court.

14. It is submitted that the Protection Officer of New Delhi has submitted his DIR dated 30.11.2018 against the Petitioner and Respondents No. 2 & 3, but it is denied that Petitioners are residing in Amritsar, Punjab. It is claimed that they are very much residing with the Petitioner in the shared household and have committed domestic violence against the Complainant.

15. Furthermore, there was no direction for the Protection Officer for conducting a home visit and the shared household premises, to make a preliminary inquiry, as is required under Rule 10(8) of DV Act and so this objection taken by the Petitioner is not tenable.

16. It is further contended that there is no prohibition in summoning the Respondent residing in Jammu and Kashmir under the Domestic Violence Act, as he had committed domestic violence while they were residing together in domestic relationship and his parents were also residing in the same house. The Complaint has been validly filed in New Delhi.

17. It is submitted that Section 12 of DV Act, though prohibits applicability of the Act to state of Jammu and Kashmir, but not summoning of the Respondent who had committed domestic violence while residing with the Complainant in the same house. Since the learned Trial Court found



that domestic violence had been committed upon the Complainant by the Petitioner and his parents, the Complaint was rightly held to be filed within its jurisdiction.

18. It is further asserted that prior to the present Application, the Petitioner had filed two other Applications, questioning the maintainability of the Complaint and the jurisdiction of learned Trial Court, which have been dismissed by the learned Trial Court and the said Order has been upheld in revision *vide* Order dated 19.12.2019. These facts have been intentionally concealed from this Court.

19. It is further explained that Mr. Prakash Chandra, Advocate who has been representing the Complainant in the Trial Court, was duly authorized by the Complainant to represent her in the present proceedings in the year 2020 when the Complaint was filed. On account on account of COVID-19 Pandemic, the hearings were being held virtually and there was no physical hearing. The *vakalatama* was executed on 20.01.2021 by the Complainant while engaging Mr. Prakash Chandra, Advocate and it has been filed subsequently in the Trial Court.

20. It is submitted that present Petition is nothing but is gross abuse of the process of the Court and is liable to be dismissed.

21. ***Submissions heard record perused.***

22. At the outset, it is pertinent to note that the Petitioner herein had filed Application dated 23.04.2019 under Sections 1(2) and Section 28 of DV Act r/w Section 1(2) and Section 177 Cr.P.C and Section 27 of DV Act, read with Rules 4/5/ 6 of the DV Rules, 2006 before the learned Trial Court, challenging the maintainability and jurisdiction of the learned Trial Court.



The Petitioner had also filed another Application dated 15.01.2021 under Section 239 Cr.P.C seeking his discharge and also of Petitioners No.2 & 3.

23. These two Applications have been dismissed by the learned Metropolitan Magistrate *vide* detailed Order dated 19.12.2019. It was observed that Section 27 of the Act permitted the Petition to be filed within the local limits where the aggrieved person was permanently or temporarily residing or carrying out business or was employed.

24. Admittedly, at the time of filing of the present Petition, the Complainant was residing within the territorial jurisdiction of Police Station Vasant Vihar and the Trial Court *vide* detailed Order dated 19.12.2019 had thus, held that it had the territorial jurisdiction to entertain the Petition. For the same reason, there was no bar for any appointment of Protection Officer by the Court of learned Metropolitan Magistrate.

25. The Application under Section 28 DV Act filed by the Petitioner was accordingly dismissed by holding that the Court had territorial jurisdiction. It was further observed that triable issues have been raised in relation to disputed facts and thus, the matter was listed for filing of reply and thereafter, for leading of evidence.

26. This order dated 19.12.2019 was challenged by the Petitioner before the learned Additional Session Judge by filing Revision Petition which was disposed of *vide* Order dated 22.02.2020 observing that there was no infirmity in the Order of the learned Trial Court. No further Appeal/ Revision Petition or challenge had been made by the Petitioner.

27. Thereafter, Review Application under Section 153 Cr.P.C was filed by the Petitioner before the learned Trial Court against the Order of the



learned Additional Session Judge alleging that the issue of applicability of DV Act in the State of Jammu and Kashmir has not been adverted to. However, this Review Application was also dismissed by the learned MM *vide* Order dated 25.02.2020.

28. From the above narration, it is evident that the issue of territorial jurisdiction of Delhi to entertain the Complaint has been decided by the Trial Court and the same cannot be re-agitated by way of present Petition under Section 482 Cr.P.C without disclosing that the discharge Applications filed on same grounds have already been decided by the learned M.M and upheld by the learned ASJ.

29. It has been rightly held by the learned M.M that Section 27 permits the Petition to be filed by a person within the jurisdiction of the Court where the aggrieved person is permanently or temporarily residing at the time of filing of the Complaint, as has been held as stated above. The Complaint was residing in Vasant Vihar and to say that the learning MM had no territorial jurisdiction is patently incorrect.

30. Once it is held that this Court had territorial jurisdiction to entertain the Complaint filed by the Respondent, all the incidental consequences, including appointment of Protection Officer automatically become applicable and thus, it cannot be claimed that the appointment of Protection Officer was without any jurisdiction.

31. In so far as challenge to the contents of the Report of the Protection Officer is concerned, it goes to the merits of the Report, which may be challenged or questioned before learned MM. This cannot be treated as a



ground for holding that the Court of learned MM had no territorial jurisdiction to entertain the petition.

32. In so far as non-filing of the *vakalatnama* by the Counsel appearing on behalf of the Complainant is concerned, it has been explained that the petition was filed during the period of COVID when the hearings were held virtually and therefore, the *vakalatnama* could not be initially filed, but has already been placed on record and the Counsel has the authority to represent the Complainant during trial.

33. Another objection which has been taken is that Section 1(2) of DV Act is not applicable to the State of Jammu and Kashmir, though the Act has been extended to whole of India *vide* Notification with effect from 31.10.2019, but the Complaint was filed prior to the amendment. Be that as it may, it cannot be overlooked that the acts of domestic violence upon the Complainant by the Petitioners are alleged to have been committed are not limited to her stay during shared household in Jammu and Kashmir. It has been alleged that the acts of domestic violence happened in all other places where the Complainant resided with Petitioner and Respondents No.2 & 3. It can also not be overlooked that the domestic violence is not just to cause physical injury or harassment, including threats, but also it extends to verbal, mental and economic abuse, and to say that there was no act of domestic violence committed is a subject matter of trial.

34. It is evident that Petitioner has resorted to multiple Applications for the same relief, where he has not been successful. This Petition is another attempt to re-agitate the same issues which have already been decided by the

2025:DHC:3683



Courts. There is no merit in the present Petition and pending Applications are hereby dismissed.

35. Any observation made herein shall not tantamount to any expression on the merits of the case.

**(NEENA BANSAL KRISHNA)
JUDGE**

MAY 08, 2025

r