



2025:DHC:5606



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Judgment delivered on :15.07.2025*+ **CRL.REV.P. 854/2024, CRL.M.A. 19631/202, CRL.M.A. 2226/2025, CRL.M.A. 14122/2025, CRL.M.A. 14123/2025**

SH PRAKASH NARAYAN

.....Petitioner

Through: Mr. A C David with Ms.Vinky
James, Advocates.

versus

SMT DEEPA DEVI & ANR.

.....Respondents

Through: Mr. Vivek Sharma, Ms. Swati
Sharma, Mr. Shiva Sharma,
Ms. Chanchal Sharma and
Ms.Nidh Kaur Sethi,
Advocates along with
respondents in person.**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J**

1. By way of the present petition, the petitioner seeks to set aside the judgment dated 12.01.2024, passed by the learned Judge, Family Court-01, Shahdara, Karkardooma Courts, Delhi (hereafter, '*learned Family Court*') in the case titled "*Smt. Deepa Devi Vs. Prakash C Narayan*" in MT. Case No. 299/2018.



2. Briefly stated, the facts of the present case are that the marriage between the petitioner and respondent no. 2 had been solemnised on 07.06.2015, according to Hindu rites and customs, at Almora, Uttarakhand, and the marriage had been duly consummated. Respondent no. 3 had been born out of the said wedlock and has been residing with respondent no. 2. It had been the case of respondent no. 1 that she had been harassed by the petitioner and his family members for dowry, for giving birth to a female child, and had ultimately been thrown out of the matrimonial home. The parties had been residing separately since September 2017. It was further stated that in October 2017, when respondent no. 2 had gone to the matrimonial home to collect her documents, she had been assaulted by her brother-in-law, who had also allegedly attempted to harm their daughter. A PCR call had been made following the said incident, but no effective action had ensued. Subsequently, on 15.01.2018, respondent no. 2 had filed an application under Section 125 Cr.P.C. before the learned Family Court, Shahdara, Karkardooma Courts, Delhi, seeking maintenance from the petitioner. The petitioner had filed a reply opposing the application on the ground that the Delhi Courts lacked territorial jurisdiction, as both parties were residents of Almora, Uttarakhand. Nevertheless, on 15.03.2018, the learned Metropolitan Magistrate (Mahila Court-02), Shahdara, Karkardooma Courts, Delhi, had directed the petitioner to pay interim maintenance of ₹25,000/- per month to respondent no. 1. Thereafter, on



12.01.2024, the learned Family Court had passed the impugned judgment.

3. The learned counsel appearing on behalf of the petitioner husband argues that the impugned judgment passed by the learned Family Court is bad in law and is liable to be set aside as the same lacks territorial jurisdiction to try and entertain the maintenance application under Section 125 of the Cr.P.C., as none of the parties has ever resided or worked for gain at any point of time in Delhi. It is also stated that the respondent no. 2, on 15.03.2018, before the learned Mahila Court, had submitted that she had been living at her parental home and had been dependent on the mercy of her parents. It is also submitted that respondent no. 2 had deposed on oath before the learned Magistrate Court at District Almora, Uttarakhand on 06.09.2019 that she had been residing in her parental village Kunidhar, District Almora since October 2017. It is further submitted that the respondent no.2, again in her cross-examination, on 03.01.2023, before the learned Family Court, had admitted her deposition made regarding residing with her parents at Kunidhar since 2017. It is further submitted that the respondents have failed to prove the lease agreement and the rent agreement dated 08.01.2018. It is argued that the respondent's explanation regarding the unserved summons is entirely false, as she allegedly shifted on 01.03.2019, whereas the summons had been returned unserved on 09.01.2019. It is also contended that the learned Final Court has made a mistake in



assessing the income of the petitioner herein as Rs. 60,000 per month instead of Rs. 45,000. It is accordingly prayed that the impugned judgment be set aside, as the same is not maintainable either for want of territorial jurisdiction or even on merits.

4. The learned counsel for the respondents, on the other hand, states that the impugned order has been passed after due consideration of the oral and documentary evidence produced before the learned Trial Court and does not suffer from any illegality. It is stated that the present petition is not maintainable as it should have been filed under Section 19(4) of the Family Courts Act, 1984, read with Section 401 of the Cr.P.C. It is also stated that the petitioner has failed to establish any error of law or gross miscarriage of justice to challenge the impugned judgment. It is also stated that the petitioner herein, in his written submissions before the learned Family Court, and also at multiple instances, has admitted that the respondent has been residing in Delhi. It is accordingly prayed that the present revision petition is liable to be dismissed.

5. This Court has heard arguments addressed on behalf of both parties and has perused the material available on record.

6. The present petition has been filed by the petitioner challenging the findings of the learned Family Court, whereby the Court upheld its territorial jurisdiction to entertain a petition under Section 125 Cr.P.C. instituted by the respondents (original petitioners) and proceeded to entertain the same on merits.



7. The sole ground urged before this Court is that the learned Family Court at Delhi did not possess territorial jurisdiction to entertain the said petition, as the respondents were not residing within Delhi at the time of filing. It is submitted that both parties and their families belonged to Uttarakhand, and that the residence in Delhi was only temporary or manipulated for the purposes of litigation.

8. Upon a comprehensive evaluation of the submissions and material on record, this Court finds no merit in the challenge raised. The findings of the learned Family Court are well-reasoned, supported by material on record, and call for no interference.

9. As per Section 126(1)(b) CrPC, proceedings under Section 125 Cr.P.C. may be instituted before a Magistrate within the local jurisdiction where the person seeking maintenance resides. The emphasis is on the residence of the person claiming maintenance, and not on the respondent.

10. In the present case, the respondents (wife and minor child) had placed on record a rent agreement (Mark B) indicating their residence at H-167/11-182, Street No. 3, West Vinod Nagar, Delhi-92, at the time of filing the petition. Although it was contended that the rent agreement had expired, respondent no.2 clarified during cross-examination that she and her younger brother had shifted to a new address at D-11, West Vinod Nagar, Delhi, which also falls within the territorial jurisdiction of the Family Court, thereby establishing a continuous and subsisting residence in Delhi.



11. The petitioner before this Court (respondent in the Family Court), had himself filed a petition under Section 9 of the Hindu Marriage Act, citing the Delhi address of respondent no.2 and had caused summons to be issued at that address. This act unequivocally demonstrates that the petitioner was well aware of the respondent's residence at Delhi and in fact, had acknowledged it in judicial proceedings.

12. Further, during the cross-examination of respondent no.2, the petitioner suggested that she was residing in Delhi and was employed there, further reaffirming his own belief and knowledge of her residence in Delhi. These suggestions contradict the petitioner's own present stand and support the respondents' case that they were residing in Delhi at the relevant time.

13. The petitioner's contention that a temporary or casual residence is insufficient to confer jurisdiction is misconceived. In the present case, the respondents' residence in Delhi was not for the sole purpose of initiating litigation. Their stay is supported by documentary evidence, consistent statements during cross-examination, and notably, the petitioner has failed to produce any credible material to dispute their residence within the territorial jurisdiction of the Family Court at Delhi.

14. The argument based on a letter addressed by respondent no.2 to the Post Office, requesting redirection of correspondence to Uttarakhand, does not advance the petitioner's case. As rightly held



by the learned Family Court, such a request is an administrative step to ensure postal convenience and does not by itself indicate abandonment of residence in Delhi. No legal presumption can arise against territorial jurisdiction based on such letter.

15. The petitioner also referred to a previous statement recorded in proceedings in Uttarakhand, wherein respondent no.2 stated she was residing with her parents in Uttarakhand between 2017 and 2019. However, the same statement also reflects that by the time of those proceedings, she had moved to Delhi and was living with her younger brother. Moreover, this fact has not been rebutted through any cogent evidence. The respondents' continued residence in Delhi stands unrebutted on record.

16. Significantly, the petitioner did not suggest or prove any specific alternate address outside Delhi where the respondents were residing at the relevant time. His cross-examination of PW-1 is silent on any contrary suggestion to her claim of living at West Vinod Nagar. To the contrary, he admitted having heard that respondent no.2 was working in Delhi — an admission which supports, not negates, the case of the respondents.

17. It is well settled that a case can be ousted on the ground of lack of territorial jurisdiction under Section 126(1) CrPC only where the wife takes up a residence in a particular place solely for the purpose of filing and prosecuting the petition, without any genuine or substantive intent to reside there. The emphasis in such cases is on



preventing forum shopping and artificial invocation of jurisdiction by means of contrived residence. The legal position, therefore, draws a distinction between genuine residence and colourable or fictitious residence.

18. However, in the present case, no such circumstance exists. The respondents have placed on record documentary evidence, including a rent agreement, to show their residence in Delhi, and have further deposed that they shifted to another address within the same locality. The respondent no.2 (wife) has stated that she has been residing with her brother, who is employed and residing in Delhi, and that she continues to reside within the territorial jurisdiction of the learned Family Court. Her testimony has not been effectively rebutted by the petitioner at any stage. On the contrary, the petitioner himself filed proceedings under the Hindu Marriage Act showing the same Delhi address of respondent no.2, and has made statements that reinforce her residence in Delhi.

19. Thus, the residence in Delhi cannot be said to be motivated merely for the purpose of filing the petition under Section 125 CrPC. The continuity and genuineness of the residence is evident from the facts and the conduct of the parties, and not merely assumed. In such circumstances, the objection of the petitioner to the territorial jurisdiction is without merit and is liable to be rejected.

20. In *Sachin Gupta v. Rachana Gupta: 2019 (257) DLT 87*, the Coordinate Bench of this Court clarified the scope of Section



126(1)(b) CrPC, holding that:

“ 6. In terms of Section 126(1)(b), the respondent would be entitled to maintain a petition both at the place where the husband is residing as also at the place where she is residing. Section 126(1) does not contemplate a permanent place of residence. Even a place where the wife is for the time being residing would confer jurisdiction on such a court, where she is residing. However, residence temporarily acquired solely for conferring jurisdiction would not satisfy the requirements of Section 126(1).”

21. As discussed earlier, in the present case, respondent no.2 has placed on record a rent agreement to show her residence in Delhi, and has also testified that she resides with her younger brother who is employed and living in rented accommodation within the jurisdiction of the Family Court at Delhi. The evidence reveals that she continues to live in Delhi, having shifted from one address to another within the same locality. There is no indication that this residence was acquired solely to confer jurisdiction. Rather, the continuity, familial connection, and supporting documents point to a genuine place of abode. Therefore, applying the principles laid down in *Sachin Gupta (supra)*, the Family Court at Delhi was fully justified in exercising jurisdiction under Section 126(1)(b) CrPC.

22. The learned Family Court, after considering all the pleadings, documents and oral testimony, arrived at the correct conclusion that it possessed the requisite territorial jurisdiction under Section 126 CrPC. The conclusion was supported by contemporaneous conduct of the petitioner himself, as well as by documentary evidence.

23. The objections raised before this Court appear to be delaying



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tactics, aimed at defeating the object of Section 125 CrPC, which is a beneficial provision meant to protect dependents from destitution. Such objections, when not substantiated, cannot be permitted to defeat the substance of a lawful proceeding on a technical ground.

24. This Court is of the view that the petition is completely devoid of merit. The learned Family Court has acted within jurisdiction, and no interference is warranted with the impugned findings.

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

26. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

JULY 15, 2025/A