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

+ W.P.(CRL) 2655/2023

MS. M

..... Petitioner

Through: Mr. Prithish Sabharwal, Mr. S. Pandey and Ms. Shweta Singh Advocates

Versus

STATE & ANR.

..... Respondents

Through: Ms. Rupali Bandhopadhyaya, ASC for the State with Mr. Akshay Kumar and Mr. Abhijeet Kumar, Advocates

**CORAM:**

**HON'BLE MR. JUSTICE SAURABH BANERJEE**

**ORDER**

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**15.09.2023**

**Crl. M.A. No. 25006/2023 (for exemption)**

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The petitioner, vide the present petition, has invoked the writ jurisdiction of this Court under Article 226 of The Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 [**CrPC**] seeking writ of *certiorari* to set aside the order dated 22.08.2023, passed by the learned ASJ-06 (POCSO), Shahdara, Karkardooma Courts, in FIR No.382/2023 dated 25.07.2023 registered under Section(s) 376/506/509/323 of the Indian Penal Code, 1860 [**IPC**] and Section 6 of the Protection of Children from Sexual Offences Act, 2012 [**POCSO**] registered at PS. Madhu Vihar, Delhi whereby application of the respondent no.2 seeking

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anticipatory bail has been dismissed and it has been held that PS. Madhu Vihar lacked territorial jurisdiction to investigate the alleged offence.

4. As per FIR registered at the behest of the petitioner, the petitioner was in a relationship, with the respondent no.2 Mr. Arman, son of Mr. Dawood Khan, resident of Shastri Park, Delhi, since past three years. Respondent no.2 is stated to have established sexual relations with the petitioner on false pretext of marriage. It is further stated that the respondent no.2 and the petitioner had sexual encounters at multiple places, including in a Oyo Room in Ghaziabad and at a place in Joshi Colony, Madhu Vihar, Delhi. Later, when the petitioner turned major and asked respondent no.2 to marry her, the respondent no.2 denied to do so. On 23.07.2023, at about 11:30 PM, the brothers of respondent no.2, Mr. Rihan and Mr. Arsalaan, forcefully entered into the house of the complainant and threatened her family. It is further stated that the assailants repeatedly said that the accused won't marry the complainant.

5. Upon registration of the FIR, the respondent no.2 moved an anticipatory bail application on 22.08.2023 before the Ld. ASJ-06 (POCSO), who, while dismissing the said application, observed as under:-

*“5. Thus, it is evident that no part of the offence which forms the subject matter of the FIR occurred within the jurisdiction of PS Madhu Vihar. During investigation no place within the jurisdiction of PS Madhu Vihar is identified by the police as the place where the alleged offence or any part thereof took place.*

*6. It is therefore, found that PS Madhu Vihar has no territorial jurisdiction to investigate into the alleged offence. This Court also lacks territorial jurisdiction to inquire into or try the present case.*



*7. This Court is coram non judge for the present application. The application is therefore, dismissed.”*

6. The learned counsel for the petitioner submits that the Ld. ASJ erred by observing that neither the petitioner nor the respondent no.2 were residents of Delhi. He further submits that the Ld. ASJ was mistaken in taking a myopic view that no physical relations were established by respondent no.2 with the petitioner at his friend’s house in Joshi Colony, Madhu Vihar, Delhi.

7. Learned counsel for the petitioner further submits that the observations of the Ld. ASJ as to the inability of identification of the place within the jurisdiction of PS. Madhu Vihar being pre-mature, is a wrong observation made by the Ld. ASJ, as it is contrary to the FIR and the investigation.

8. Status Report was called for and the same was handed over during the course of the day, wherein, it has been confirmed that the residence of both, the petitioner and of the respondent no.2, at the time of registration of the FIR, was in Delhi. It is further stated therein that the petitioner, though could not particularly identify the flat, however, she narrowed down the address to Gali No.3, Joshi Colony, Madhu Vihar (Delhi).

9. Be that as it may, this Court would like to bring the relevant statutory provisions qua the jurisdiction of a Criminal Court, enumerated in Chapter XIII, CrPC as under:

*“177. Ordinary place of inquiry and trial. Every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed.*

*178. Place of inquiry or trial. (a) When it is uncertain in which of several local areas an offence was committed, or*



*(b) where an offence is committed, partly in one local area and partly in another, or*  
*(c) where an offence, is a continuing one, and continues to be committed in more local areas than one, or*  
*(d) where it consists of several acts done in different local areas, it may be inquired into or tried by a Court having jurisdiction over any of such local areas.”*

10. A reference to Section 177 CrPC reveals that only offences committed within the local jurisdiction of the Court, may be inquired or tried into by it. However, when there are offences consisting of several acts, Section 178 CrPC comes into foray, whereof “... ..*it may be inquired into or tried by a Court having jurisdiction over any of such local areas.*”<sup>1</sup>

11. In view of the fact and without going into the merits of the present case and taking into consideration that in the present scenario as per what is contained in the FIR, the alleged offence(s) were committed at Ghaziabad (Uttar Pradesh) as well as Madhu Vihar (Delhi). Further, *admittedly*, the same is corroborated by the Status Report filed by the State. It is trite law that, the issue of jurisdiction is not the same unlike civil jurisprudence. Therefore, *de hors*, the place of residence of the accused/ complainant in the present case, the Court within whose local jurisdiction, the alleged offence is stated to have been committed, will be the *coram judice* to inquire and try into the offence.

12. Therefore, as per the FIR, the alleged offence(s), being committed over a elongated period of time, was/ were also committed in different jurisdictions, including Ghaziabad (Uttar Pradesh), North East (Delhi),

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<sup>1</sup> Section 178(d), Code of Criminal Procedure, 1973 (Act 2 of 1974)



Joshi Colony, Madhu Vihar (Delhi), amongst others, PS. Madhu Vihar has the required jurisdiction to register the FIR.

13. Accordingly, the order dated 22.08.2023, passed by the learned ASJ-06 (POCSO), Shahdara, Karkardooma Courts, whereby the anticipatory bail application of respondent no.2, was dismissed for want of jurisdiction, is set aside and the Ld. ASJ is directed to reconsider the same, for which the respondent no.2 is given an opportunity to file a fresh bail application before the said Ld. ASJ at the earliest.

14. Needless to say the Ld. ASJ shall hear and dispose of the bail application, if any filed by the respondent no.2, on its own merits, *de hors* the earlier order dated 22.08.2023.

15. Accordingly, the petition stands disposed of.

**SAURABH BANERJEE, J.**

**SEPTEMBER 15, 2023**

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