

XXX Vs YYY

COMA-12-2024

**Present:** Sh. Kulwinder Singh counsel for  
applicant. Sh. Nikhil Dhir Adv. Counsel for  
respondents

## ORDER

1. This order shall mine dispose off the application filed by the respondent no.1 for rejection of complaint on the averments that present complaint filed by the complainant is not maintainable before this court as the complainant does not reside either temporarily or permanently at the Indian address as mentioned in the memo of parties as detailed in the application and prayed to allow the present application.

2. Reply to said application has been filed by petitioners wherein they denied the averments of the application by stating that petitioner no.1 used to come and visit Khanna various times after marriage which clearly shows that cause of action also arisen and took place at Khanna and prayed for dismissal of the present application.

3. I have heard learned counsel for both the parties and perused the entire record on file.

4. Perusal of the file reveals that petitioner no.1 X has filed the present petition through her attorney Sh. Bhushan Kumar Mittal by alleging that she is presently residing at Australia i.e. Unit no.I, 207, Charman Road, Cheltenham, 3192, Melbourne, Australia. She further alleged that she is legally wedded wife of respondent no.1 Rohit Gupta who is resident of 6/54, Doctor Atma Singh Wali Gali, Char Khamba Chowk, Tarantaran, Tehsil and District Tarantaran; her marriage with respondent no.1 was solemnized on 6.9.2008 at Dhillon Resort, Tarantaran; after the marriage, she and respondent no.1 started residing at 4/213, Behind SBI Bank, Railway Road, Tarantaran and after some time, they got settled at Greater Noida; out of their wedlock, petitioner no.2 Kavita Gupta was born on 24.10.2013; in the year 2019, both the parties to the present petition were shifted to Australia; even now they are residing in Australia. From the aforesaid undisputed averments of the

petitioner, it has come to the surface that petitioners neither permanently or temporarily resided or employed in Khanna nor any cause of action for filing the present petition has arisen at Khanna. As per section 27 of the Domestic Violence Act, 2005, the court has jurisdiction to try the case if person aggrieved permanently or temporarily resides or carries on business or is employed within its jurisdiction. In the instant petition, as the petitioners failed to satisfy any of the three conditions mentioned aforesaid, therefore, this court has no jurisdiction to entertain and try the present petition. The above view of this court is supported by the judgment of Hon'ble Supreme Court of India in the case titled as "Shyamlal Devda and others Vs Parimala Criminal Appeal no. 141 of 2020, d/d 22.1.2020, Law Finder Doc Id # 1669063" and judgment of Hon'ble Punjab and Haryana High Court in case titled as "Karan Lohia @ Deepak and others Vs State of Haryana and another CRM-M-No.19460 of 2019 (O&M), d/d 1.5.2019". As this court has no jurisdiction to entertain and try the present petition, the instant application filed by the respondent no.1 stands allowed and the present petition filed by the petitioner stands dismissed in the interest of justice. File be consigned to record room after due compliance.

**Pronounced in Open Court**

15.11.2025

(BHUPINDER KUMAR MITTAL, PCS)  
SUB DIVISIONAL JUDICIAL MAGISTRATE  
KHANNA (UID No. PB0381)

Directly dictated by Self

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