

**PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005 “SHARED HOUSEHOLD”**

II (2009) DMC 647

**DELHI HIGH COURT**

*Dr. S.Muralidhar, J.*

NIDHI KUMAR GANDHI -Petitioner Versus

STATE & ORS. - Respondents

Crl. M.C. No. 452 of 2008 & Crl. M.A.Nos. 13069 of 2008, 13736 of 2008, 14326 of 2008, 14664 of 2008, 14838 of 2008, 14839 of 2008, and 139 of 2009 –Decided on 16.1.2009

- (i) Criminal Procedure Code, 1973 – Section 482 – Protection of Women from Domestic Violence Act, 2005 – Section 12, 23(2), 29 – “Shared Household” – Maintainability of petition – Grant of relief – Restoration of *status qua ante* in relation to petitioner’s possession of portion of house in question of M.M. – Stay of operation of impugned order by ASJ not justified – under Section 29 of Act an appeal has been provided to court of Session from order of Magistrate - This being the scheme of Act submission that no relief in criminal jurisdiction of High Court can be sought by way of petition under Section 482, Cr.P.C. is wholly misconceived – As per sanctioned plan there is an unfurnished room indicated as ‘kitchen/store’ on first floor which at present is unoccupied and this is adjoining passage – Petitioner states to use it for said purpose to extent that she can as long as her right to separate entrance from ground floor and duplicate keys to main entrance and main door provided to her – Petitioner is only seeking restoration of relatively small portion which was under her occupation prior to 17.4.2007 – ASJ erred in interfering with interlocutory order passed by MM – By granting to respondents final relief in relation to issue of far as petitioner is concerned – Impugned order passed by ASJ set aside – Directions issued to ASJ.  
(Paras 11to 16)
- (ii) Criminal Procedure Code, 1973 – Section 482r/w Art. 227 of Constitution of India, 1950 – Inherent /Superintending Powers of High Court – When in view of this Court is not powerless in exercise of its powers under Section 452, Cr.P.C. or Art. 227 of Constitution to interfere.  
(Para 11)

**Result: *Petition allowed.***

---