

* **HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P. (Crl.) No. 356-59/06 & Crl M. A. No. 1332/06**

Date of decision : 01.05.2008

ASHISH TANDON & OTHERS Petitioners
! Through : Mr. M.K. Arora, Adv. with
Mr. R. Chhabra, Adv. along with
Petitioner in person.

Versus

\$ HARPREET KAUR & OTHERS Respondents
^ Through : Ms.Rajdipa Behura with Mr.
Rajat Katyal, APP for the State.
Mr. Vijay K. Sehgal, Adv. for the
complainant along with
Complainant in person.
IO ASI Baljit Singh.

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CORAM:
HON'BLE MS. JUSTICE ARUNA SURESH

- (1) Whether reporters of local paper may be allowed to see the judgment?
- (2) To be referred to the reporter or not?
- (3) Whether the judgment should be reported in the Digest ?

J U D G M E N T

ARUNA SURESH, J. (Oral)

1. The petitioners have filed the present writ petition seeking quashing of FIR No. 46/2006, Police Station Tilak Nagar under Sections 498-A/406/34 IPC.

Quashing of the FIR has been sought on various grounds. However, the learned counsel for the petitioners emphasised that the courts in Delhi have no jurisdiction to take cognizance of the offence and proceed with the trial of this case as no part of offence occurred in Delhi and occurrence, if any, took place at Jalandhar and therefore, according to him the FIR registered at Delhi and investigation thereof is liable to be quashed.

2. Learned APP for the State submits that at any place an investigation can be conducted by the investigating agency and the FIR cannot be quashed. He submitted that in this case since the dowry articles were returned at Delhi, a part of occurrence took place in Delhi, and therefore the Magistrate has the power to take cognizance of the offence alleged to have committed by the petitioners. It is stated that chargesheet has been filed. It is also argued that divorce proceedings are going on inter se the parties in Delhi in which the complainant has moved an application under Section 24 of the Hindu Marriage Act for maintenance pendente lite. A copy of the

order has been placed on record.

3. To appreciate the submissions made by the learned counsel for the petitioners as well as by the learned APP for the State, the provisions of Sections 177 & 178 of the Code of Criminal Procedure (hereinafter referred to as Cr.P.C.) are to be kept in mind. Sections 177 & 178 read as follows:

“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.”

4. From the bare reading of the Sections it is clear that ordinarily every offence would be enquired into or

tried by a court within whose local jurisdiction it was committed. Section 178 Cr.P.C. speaks of cases when an offence is committed partly in one area and partly in another and the courts having jurisdiction in both the areas have territorial jurisdiction to take cognizance of offence and therefore, such an offence can be inquired into and can be tried by a court having jurisdiction over any of such local areas. This section envisages a position in which one ingredient of the offence is committed at one place and other is committed at another place.

5. The admitted facts are that the marriage was performed on 6.9.2004 at Amritsar. The dowry articles were given to the respondent No. 1 at Jalandhar. The dowry articles were entrusted to the petitioners at Jalandhar. After the marriage the parties cohabited at Jalandhar i.e. they lived as husband and wife at Jalandhar. The dowry articles were returned back to the respondent No. 1 at Jalandhar. The amicable compromise between the parties also took place at Jalandhar. A divorce petition was also filed between the parties at Jalandhar which

was dismissed by the concerned Court on an application of respondent No. 1. As per the FIR respondent No. 1 was allegedly subjected to mental and physical cruelty and torture by petitioner No. 1 and his other family members i.e. other petitioners for demand for dowry at Jalandhar.

6. Thus, from the admitted facts it is clear that the offence under Sections 406/498-A IPC was committed at Jalandhar within the jurisdiction of courts at Jalandhar. As per the admission of the parties no part of offence was committed within the jurisdiction of Delhi courts. Therefore, the courts at Jalandhar are the competent courts to take cognizance of the offences as registered against the petitioners.

7. In **Smt. Afsana v. State of Delhi & Ors. 2007 (4) JCC 2744**, this Court in a case where the complainant was married to the accused at Village Bhajera Kala, District Ghaziabad and the complainant was subjected to mental and physical cruelty at the said place, while upholding the order of the Additional Sessions Judge held that the place of occurrence as mentioned in the

FIR was Village Bhajera Kala, Police Station Dhaulana District Ghaziabad, Delhi courts had no jurisdiction to try the case. Similar are the facts and circumstances in this case and therefore, in view of the provisions contained in Sections 177 and 178 of Cr.P.C. courts at Delhi have no jurisdiction to try the case.

8. Under Section 19 of the Hindu Marriage Act, petitioner being resident of Delhi at the time of filing of the petition could file divorce petition as well as application under Section 24 of the Hindu Marriage Act at Delhi. The jurisdiction governing divorce petition and other petition under Hindu Marriage Act are governed by Section 19 of the said Act, whereas the territorial jurisdiction of a Court to take cognizance of offence is governed by Section 177 and 178 of the Cr.P.C. which are different from the provisions contained in Section 19 of the Hindu Marriage Act. Therefore, the respondents cannot agitate that courts at Delhi have jurisdiction to take cognizance of offences as registered against the petitioners at Delhi on the plea that divorce petition as well as application under Section 24 of the Hindu

Marriage Act was filed by the respondent/complainant at Delhi.

9. Under these circumstances, it is not necessary for the court to quash the FIR but since the courts at Delhi have no jurisdiction to hold trial of this case, it is just and proper that the case is transferred to the competent court at Jalandhar to conduct trial of this case. The learned trial court shall send file of this case in a sealed cover to the District and Sessions Judge at Jalandhar for allocation of the case to a competent court of jurisdiction. The parties shall appear before the District and Sessions Judge at Jalandhar on 30th May, 2008 for further directions. The prosecution file shall also be transferred to the prosecution branch at Jalandhar.

10. Petition stands disposed of accordingly. Attested copy of the order be sent to the trial court as well as to the State.

**ARUNA SURESH
(JUDGE)**

**May 01, 2008
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