

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

Date of Reserve: July 20, 2010

Date of Order: August 06, 2010

+ CrI. M.C. No. 950/2010

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06.08.2010

VIJAY AGGARWAL & ORS

..... Petitioner

Through: Mr. Sanjay Sharma, Adv.

Versus

STATE & ANR

..... Respondents

Through: Mr. O.P. Saxena, APP

JUSTICE SHIV NARAYAN DHINGRA

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

JUDGMENT

1. Present petition has been filed by the petitioner for quashing of FIR on the ground that no part of the offence allegedly committed, was within Delhi and registration of FIR in Delhi is a gross misuse of judicial process. The allegations made in the FIR were denied. It was stated that respondent/complainant had earlier made a complaint before CAW Cell and this complaint was closed on the ground that none of the alleged acts of cruelty was committed in Delhi.

2. Present FIR was registered against the petitioner at the directions of learned M.M. who entertained a complaint under section 156 (3) Cr. P.C. and passed an order dated 23rd November, 2009 directing registration of FIR against four of the accused persons stating that they appear to be guilty of offence under section 498A/406 IPC.

3. The question of jurisdiction was considered by the Court of M.M. while passing order and he had observed that marriage took place in Kanpur and after marriage husband and wife resided at Delhi. Wife had placed certain documents in this regard on record. The other ground for holding that Delhi has jurisdiction, was that a notice was issued on behalf of the complainant from Delhi asking dowry articles back. Reliance was placed on *Roshan Kumar Tiwari Vs. State of Delhi, 2000 V AD (Delhi) 693*.

4. The petitioner has relied on earlier status report filed by the CAW Cell which was investigated on the complaint made by the wife. In the status report it was mentioned that the complainant was married on 10th June, 2007 with Mr. Vijay Aggarwal at Kanpur. Her in laws were not happy with gifts and jewellery and her expensive jewellery and istridhan articles were taken away from her by her *nand* and mother in law in the presence of her husband. After marriage, she went to Bangalore with her husband. Her husband committed cruelty on her. From Bangalore, her husband went to USA and came after one year and then went to Mumbai. For purchase of a flat at Mumbai, the in laws

of the complainant demanded Rs. 15 to 20 lacs. Her husband used to take away full salary and never paid her any money. He used to treat her with cruelty and beat her. The investigating officer at CAW Cell reported that both parties were called and during inquiry it was revealed that marriage of complainant was solemnized in Ghaziabad at the residence of her husband. After marriage, she lived with her husband at Bangalore and Mumbai. She was not willing to live with her husband on the ground that her husband was an impotent person. The investigating officer further reported that only one sitting took place in CAW Cell and husband and wife thereafter started quarrelling.

5. A perusal of judgment of DB in *Surinder Kumar Yadav & Ors. Vs. The State*, ILR (2000) II Delhi, would show that this Court had held that jurisdiction to take cognizance of the offence under section 406 Cr. P.C. would also be at a place where the entrusted property is required to be returned.

6. I consider that in view of the above judgment it would not be proper to quash the FIR at this stage and it would be appropriate that a fair investigation is done by the police in this case & a final report is submitted by the police. After final report is submitted, the Court of MM where report under section 173 Cr. P.C. is submitted would decide the issue of jurisdiction in the light of evidence collected.

7. I, therefore, consider that it is not a fit case where this Court should exercise its exceptional power under section 482 Cr. P.C. for quashing the FIR. The petition is dismissed.

AUGUST 06, 2010
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SHIV NARAYAN DHINGRA, J.