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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Reserve: August 25th, 2010

Date of Order: September 22, 2010

+ CrI. M.C. No.3329 of 2009

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Sanjeev Majoo & Ors.

22.09.2010

...Petitioners

Versus

State Govt. of NCT of Delhi

...Respondents

Counsels:

Mr. Pallav Shishodia, Sr. Advocate with Mr. Mukul Kumar, Mr. B.R. Sharma and Mr. Satpal Singh for petitioners.

Mr. O.P. Saxena, APP for respondent/State.

Mr. Rakesh Tikku, Advocate for complainant

JUSTICE SHIV NARAYAN DHINGRA

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

JUDGMENT

1. This petition under Section 482 Cr.P.C and Article 227 of the Constitution of India has been preferred by the petitioners for quashing of FIR No.97 of 2009 dated 7th July, 2009 registered against the petitioners under Sections 498A, 406 read with Section 34 of IPC at police station Crime Against Women Cell, Nanakpura, New Delhi.

2. It is an undisputed fact that petitioner no.1 Mr. Sanjeev Majoo and the complainant i.e. wife Ms. Ruchi Majoo, both are citizens of USA and the marriage between them had taken place on 12th December 1996 at Delhi. Even at the time of engagement, Ms. Ruchi Majoo and Mr. Sanjeev Majoo were in America and engagement ceremony had taken place in Detroit, USA at the house of uncle of Ms. Ruchi Majoo in

September 1996. After marriage, the parties left for USA, lived there as US citizens. Ms. Ruchi Majoo gave birth to one son namely master Kush, who became US citizen by birth. However, it appears that the life was not happy for them and Ms. Ruchi Majoo served a legal notice dated 8th July, 2008 on Mr. Sanjeev Majoo through her advocate *inter alia*, making following allegations:

- “2. That however, immediately after the marriage, your conduct had been unbecoming of a good husband. My client was not earning at that time. You did not take care of her financial requirements in an alien country and as a result she had to borrow from her father and family from time to time even for her personal needs. So much was your negative attitude towards her that she had to remain most of the times confined in the apartment where you and my client had shifted.
3. Even then for no justifiable reason you had been often scolding and rebuking my client and also adversely commenting on her mannerism and way of dressing, even privately and in the presence of your friends and relations, thereby causing humiliation to her.
4. That during the year 1997 when you and my client were in the USA, my client also came to know of your having extra-marital relationship with a married girl Neetu whose husband had been threatening to cause physical harm to my client as well as to you. On coming to know of this, you had assured my client that you would mend your ways and as such my client agreed to pardon you at that time.
5. That during my client's stay in the USA she also came to know that you were also often having physical relationship with different women at time in Motel and/or some other places and you were caught on one of such occasion. Even after you had got a job in New Jersey, after completing your studies, you did not take care of the

financial needs and daily expenses of my client who was being forced to borrow from her family, which was a humiliating experience for my client. You did not even permit her to pursue her further studies thereby causing her physical, mental pain and anguish. Every time you would create such a situation thereby forcing my client to withdraw to her room. You would pick up fights and arguments with her for no reason or rhyme thereby disturbing her peace of mind.

Xxxxxxx

7. *That somewhere in the year 2002, you also injured my client physically in the presence of baby sitter who was persuaded not to call the police at the insistence of my client who was trying to make the marriage work. You again apologized and also assured my client that in future you shall take care of the things. In between you had also been for counseling as you realized that your behavior was not normal. With the minor son also you were abusive and also caused hurt by pinching him hard on his body. You were also rough to him most of the times. This abusive behavior continues.*

Xxxxxxxxxx

9. *That there are a large number of instances of occasions when your cruel conduct continued of which you are aware of and the same are not being repeated herein. You and your parents had also been complaining of inadequate dowry to my client. Whatever my client had brought as Istridhan was also retained partly by you and partly by your parents. Whenever my client demanded the Istridhan, on the pretext that the same is lying in safe custody, you had been refusing to give that to my client.*

Xxxxxx

12. *You were persuaded to go for counseling twice but you left both times unfinished citing one or the other reason. You had also informed my client that in your office also, you had been warned of your aggressive behavior and asked my client to go for some kind of improvement training so that you could know how to work as a group member.*

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15. *That accordingly on behalf of my client, I am to inform you that my client is not interested in going back to you to USA and she is trying to work out an alternate suitable arrangement for herself and her minor son and as such you are required not to come and visit my client's father house. My client is also seeking appropriate legal advice to take such legal steps which may be required for the welfare of the minor son as well as for herself which my client is likely to take shortly which could include divorce proceedings in appropriate court including in US and would also include claim of rights in respect of matrimonial assets. However, should you force your entry into my client's father house in New Delhi, then my client and her father will take appropriate action against you in accordance with law."*

3. As things turned out, Ms. Ruchi Majoo came to India with her son and a custody battle for the son is going on between the parties. Mr. Sanjeev Majoo, petitioner no.1 herein, applied for divorce before the Court in USA and a decree of divorce was granted by the US Court on 13th May, 2009 whereby rights of Ms. Ruchi Majoo wife were decided by the Court in USA and following arrangement was made:

"10. The Respondent is awarded the following items of community property as her sole and separate property subject to all liens and encumbrances thereon:

A. Furniture, furnishing, and personal effects in her

possession;

- B. Gold jewelry in her possession;*
- C. Bank of America bank account in her name;*
- D. Emigrant Direct bank account in her name;*
- E. Standard Chartered bank account in her name;*
- F. Bank accounts in India in Respondent's name;*
- G. Real property in India in Respondent's name;*

4. Ms. Ruchi Majoo in her communication to the Superior Court at California, USA on 22nd April, 2009 had informed the Court as under:

"1. I do not own any Real estate in India. The information given by Mr. Sanjeev Majoo is wrong and needs to be corrected.

2. All my jewelry excepting two items of jewelry and a ring are in my home at 462, Cremona Way, Oak Park, CA, where my, My Sanjeev Majoo stays and at the Residence of my's parents, in Udaipur, India. This forms a part of my dowry given by my family at the time of my marriage in India and during the course of our married life, which is customary as per Indian traditions.

3. I have Indian Rupees 4,10,000/- (equivalent to USD 10k) in Indian banks, which was a gift from my family and not a part of my income.

This money was transferred by me from USA (Bank of America) to India much before I left USA for India."

5. However, in the FIR which Ms. Ruchi Majoo lodged against Mr. Sanjeev Majoo and her father in law, mother in law and brother in law, she made allegations that even before her marriage, her father in law and mother in law had told that her parents should

keep in mind the expenditure on education of Mr. Sanjeev Majoo while considering the dowry and the dowry should commensurate with the status of in laws and so a lot of dowry was given at the time of marriage including jewelry, clothes and gazettes. After marriage a locker was opened at Udaipur in the joint name of herself, her husband and mother in law and whole lot of articles and expensive gifts were retained by in-laws at Udaipur. She further alleged that even when in 1997, when her mother in law was in USA, she passed sarcastic remarks regarding insufficient dowry. In 1999, she had come to attend the marriage of husband's brother Mr. Rajeev Majoo and gone to Udaipur. Even during that period, her in-laws put consistent pressure and demanded more money. She was permitted to open locker in Udaipur for wearing jewelry on the occasion of marriage but again the jewelry was kept in the locker and she was not allowed to take her items. Thereafter, she made allegations of what transpired between her and her husband in USA from 1997 onwards. She stated that her matrimonial life went through rough weathers and it became difficult for her to stay in USA with her husband anymore. She decided to come to India with the child in December 2004. In December 2004, her in laws also came to India and threatened her to return to USA or else a situation would be created that she would be divorced by her husband. She came to Delhi and requested her to go back to USA and promised that things will improve. She went back to USA on this promise in January, 2005. Again her husband's attitude did not improve and she narrated what happened in USA between her and her husband. Ultimately in January 2008, she had told her husband that she would no more live with him as she had planned to live separately from him with her son. On this, her husband suggested that she should go to India along with the child for summer vacation and he would also accompany her since had had to see his parents. She came to his parent's house. She went on narrating the sequence of incidents which took place in Delhi between her and her husband including the legal battle for taking custody of her son Kush. Both she and her husband exchanged emails regarding their son and she leveled allegations against

her husband about threats of filing a kidnapping case against her in USA and obtaining of divorce by her husband from US Court. Ultimately, she recorded in her complaint that the facts written by her showed that she had been treated with cruelty both physically and mentally because of willful conduct of her husband, her parents in law and her brother in law.

6. It is apparent that the complainant, a citizen of USA, had all along lived in USA with her son and husband, away from her in laws but filed this FIR against her mother in law, father in law, brother in law and her husband so as to misuse criminal justice system as a tool of vengeance. From perusal of her statement made in California Court, it is apparent that entire scene of occurrence was USA, her in laws had no say in their married life. In California court, she had categorically stated that all her jewelry was lying in her US house. She nowhere stated that her jewelry was lying with her in laws but in FIR against her in law, she suddenly discovered that she had a locker in Udaipur. She does not disclose the locker number or the bank where the locker was, the date of opening of locker and what jewelry were lying in it and submits that her in laws in 1997 and 1998 had asked her to keep her jewelry there. While in 2008, she told the California Court that her entire jewelry was with her at her house in USA, California.

7. Even if it is believed that in 1996, her in laws had expressed desire that the dowry must commensurate with the status, firstly she had not alleged any demand, still if she considered this as demand, she was at liberty to get a case registered under Dowry Prohibition Act at that time. There are no allegations of cruelty against in laws. Therefore, no offence under Section 498A IPC was made out against her in laws on the basis of allegations made by her in the FIR even if every allegation is considered true. As far as Mr. Sanjeev Majoo is concerned, the complainant and Mr. Sanjeev Majoo had lived in USA and all allegations of cruelty are of USA. No offence was committed within the

jurisdiction of this country. Thus, no offence could have been registered against any of the petitioners/ accused persons under Section 498A or 406 IPC in India. Even otherwise, since both of them were American Citizens and the matrimonial offence, if committed, were committed in USA, the Court at India would have no jurisdiction to proceed against Mr. Sanjeev Majoo. All persons who commit crime in India can be tried in India whether they are foreign or Indian citizens, but Section 4 IPC puts a bar on the scope of applicability of territorial jurisdiction to the courts of India to try a case, cause of action of which had taken place outside the geographical limits only in respect of Indian citizens. Where the accused is not a citizen of India and the cause of action/ offence has not been committed within India, in view of Section 4 IPC and Section 188 Cr.P.C, the trial of offence against the person cannot proceed in India. Section 188 Cr.P.C reads as under:

"188. Offence committed outside India.

When an offence is committed outside India-

(a) By a citizen of India, whether on the high seas or elsewhere; or

(b) By a person, not being such citizen, on any ship or aircraft registered in India.

He may be dealt with in respect of such offence as if it had been committed at any place within India at which he may be found:

Provided that, notwithstanding anything in any of the preceding sections of this Chapter, no such offence shall be inquired into or tried in India except with the previous sanction of the Central Government."

8. Mr. Sanjeev Majoo in this case and the complainant in this case both being American citizens and the alleged matrimonial cruelties having taken place in America, police and courts in India did not have jurisdiction to enquire into or conduct trial of offence.

9. In view of the facts disclosed from the FIR, even if all the facts stated in FIR are considered true, no offence was made out against father in law, brother in law, mother in law. If any offence is made out cognizance of it was barred by limitation under Section 468 Cr.P.C. As far as Mr. Sanjeev Majoo is concerned , FIR could not have been registered in view of Section 4 IPC and Section 188 Cr.P.C.

10. In the result, the petition is allowed and the FIR No.97 of 2009 dated 7th July, 2009 registered against the petitioners under Sections 498A, 406 read with Section 34 of IPC at police station Crime Against Women Cell, Nanakpura, New Delhi and the proceedings emanating therefrom are hereby quashed.

11. The petition stands allowed.

September 22, 2010
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SHIV NARAYAN DHINGRA, J