

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

Tr.C.M.P.No.350 of 2015

ORDER:

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This petition is filed by the petitioner/defendant for transfer of O.S.No.548 of 2014 on the file of Principal District Judge-cum-Special Judge for SC/ST cases, Visakhapatnam, Andhra Pradesh instituted by the respondent herein for claiming damages from the petitioner on account of police report filed by the petitioner against her husband under Section 498-A IPC.

The case of the petitioner is that the petitioner was married to one Sandeep Ahuja according to Hindu customs on 05-12-2012. Owing to ill-treatment by Sandeep and his parents and other relatives (i.e. husband and in-laws of petitioner), the petitioner lodged a complaint with the Women Police Station, at Nampally, Hyderabad. Pursuant to the complaint, police registered a case in Cr.No.219 of 2014 on 14-07-2014 against the husband of the petitioner and her in-laws, for the offences under Sections 498-A, 506 IPC and Sections 4 and 6 of Dowry Prohibition Act. It is further case of the petitioner that the respondent claiming to be a family friend of her in-laws instituted a suit in O.S.No.548 of 2014 on the file of Principal District Judge-cum-Special Judge for SC/ST Cases, District Courts, Vishakapatnam seeking damages to an extent of Rs.25.00 lakhs alleging that the petitioner had caused defamation to him by lodging a complaint, which eventually led to the registration of crime in Cr.No.219 of 2014 by the Women Police Station. According to the petitioner, no cause of action arose within the jurisdiction of Court at District Court at Visakahapatnam and the petitioner is also resident of Hyderabad. As such, District Court at Visakhapatnam has no jurisdiction to try the same. On that the petitioner filed transfer CMP for transfer of above suit to City Civil Court, Hyderabad.

Learned counsel for the petitioner states that as per Section 19 of C.P.C. a suit can be laid in the Court within the local limits of jurisdiction of Court, where wrong was done or within the jurisdiction of Court, where the defendant resides. In the present case, neither the cause of action arose within the jurisdiction of Courts at Visakhapatnam nor petitioner/defendant resides there. As such, Court at Visakhapatnam has no jurisdiction to try the same. He also says that as per Section 24 (5) of C.P.C. suit is liable to be transferred from the Court, which has no jurisdiction to try it. In support of his contention, he relied on the judgments of

Sc.Bose & Co. Hyderabad and others v. G.Srikanth^[1] and M/s.Sreepathi Hosiery Mills (P) Ltd., Calcutta and another v.M/s.Chitra Knitting Co.Tiruppur^[2].

Learned counsel for the respondent states that Sections 19 and 20 CPC has to be read together and since respondent friends enquired about the police report filed by the petitioner in Hyderabad, the respondent's reputation was affected at Visakhapatnam. As such, District Court at Visakhapatnam has jurisdiction to try the same. In support of his contention, he relied upon by the judgment of the **State of Maharashtra v. Sarvodaya Industries, a registered partnership doing business of Poha at Akola^[3].**

In this case, it is relevant to extract relevant provisions of C.P.C., which are necessary for disposal of transfer CMP.

Section 19: Suits for Compensation for wrongs to persons or movables:

Where a suit is for compensation for wrong done to the person or to movable property. If the wrong was done within the local limits of the jurisdiction of one Court and that the defendant resides or carries on business, or personally works for gain, within the local limits of the jurisdiction of another Court, the suit may be instituted at the option of the plaintiff in either of the said Courts.

Section 20: Other Suits to be instituted where defendants reside or cause of action arises:

Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction:-

- a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business or personally works for gain; or
- b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid acquiesce in such institution; or
- c) the cause of action, wholly or in part, arises.

Section 24 (5): A suit or proceeding may be transferred under this Section from a Court which has no jurisdiction to try it.

Opening words of Section 20 of C.P.C. reads subject to the limitations

aforesaid. Section 19 of C.P.C. clearly says that the suit may be instituted at the option of the plaintiff in the Court, where wrong is done within the jurisdiction of that Court or before the Court, where the defendant resides. The wording of Sections 19 and 20 C.P.C. goes to show that Section 20 of C.P.C. is subject to other limitations in the said chapter place of suing. As such, Section 20 C.P.C. cannot be independently read. In the judgment cited (supra 2), in para No.2 Madras High Court held as follows:

2. The learned District Munsif noted both Ss. 19 and 20, C.P.C. Section 20, though it appears to be omnibus in nature, is subject to the limitations mentioned in the chapter. One such limitation is contained in S. 19. Section 19 reads as follows-

"Where a suit is for compensation for wrong done to the person or to moveable property, if the wrong was done within the local limits of the jurisdiction of one court and the defendant resides or carries on business or personally works for gain within the local limits of the jurisdiction of another court, the suit may be instituted at the option of the plaintiff in either of the said court."

Whenever a suit for compensation for wrong done to person or to moveable property is filed, the option is with the plaintiff to either institute the case based on such cause of action at the place where the defendant resides or works for gain or at the place where the wrong was committed. There is no way out of this limitation as to jurisdiction envisaged in Section 19, C.P.C. The argument is that the plaintiff has examined a witness who has sworn to the fact that he heard about the alleged damage done to the plaintiff. If this were to be the basis on which jurisdiction can be created or vested in Civil Court, then S. 19 would be otiose. When the Code, which more or less lays down the substantive law, though procedural in aspect, regarding such matters of jurisdiction, creates certain peripheries and limitations, particularly in the matter of the laying of suits in the forum of specified courts, then no option is left to the litigant except to strictly adhere to such prescriptions in the section of the Code. Section 19 is a specific section. It says that, where a suit for compensation for wrong done to person is laid, it should be filed at the place where the wrong is done or at the place where the author of the wrong resides or works for gain. There being no other choice available to the litigant who wishes to seek such compensation, he cannot whittle down the express prescription in S. 19 of the C.P.C., and lay emphasis on the oral evidence casually let in by him so as to create or vest jurisdiction in the court, which has none. The order of the Court below is therefore erroneous and suffers from an error of jurisdiction. The order is set aside and the lower Court is directed to return the plaint to the plaintiff of being presented to the proper and appropriate court. The civil revision petition is allowed. There will be no order as to costs."

In judgment (supra 1) in para No.18 this Court held as follows:

"The next contention relates to the Courts at Hyderabad not having jurisdiction. At the outset, I must state that this is not a ground for rejection of the plaint under Rule 11 of Order VII CPC. If the Court has no territorial or pecuniary jurisdiction to try it, it cannot reject it but has to return it for presentation to the proper Court, As per Section 19 C.P.C. in case of suits for compensation for wrong done to the person or to movable property, if

the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain, within the local limits of the jurisdiction of another Court, the suit may be instituted, at the option of the plaintiff, in either of the said Courts. The fact that the revision petitioners are within the jurisdiction of the Chief Judge, Civil Court, Hyderabad is not, and cannot be, denied or disputed because the addresses of the revision petitioners given in the revision petition shows that they are all residents of Hyderabad. So respondent can file the suit either at Hyderabad, where the revision petitioners are residing or at Chennai, to which place the telegram was sent and where the telegram was received.”

A reading of the plaint in O.S.No.548 of 2014 regarding the cause of action is also not very clear, how the District Court at Visakhapatnam has jurisdiction and as held by Madras High Court basing on statement, jurisdiction cannot be vested in the said Court. Following the reasoning given by the learned single Judge of this Court in judgment (supra 1), I am of the opinion District Court at Visakhapatnam has no jurisdiction to try the suit. I am unable to agree with the view of Bombay High Court on which reliance placed by the respondent, since the said Court has not taken into account the opening words of Section 20 of C.P.C. subject to limitations aforesaid. The petitioner made complaint to the police at Hyderabad against her husband and her in-laws. As such cause of action arose within the jurisdiction of Court at Hyderabad. As per Section 24(5) of C.P.C. O.S.No.548 of 2014 is liable to be transferred to City Civil Court, Hyderabad.

Accordingly, the Transfer CMP is allowed. As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

19-11-2015
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A.RAJASHEKER REDDY,J

[\[1\]](#) 2006(4) ALD 354

[\[2\]](#) AIR 1977 Madras 258

[\[3\]](#) AIR 1975Bombay 197