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

Date of Decision: March 11, 2015

+ CRL.M.C. 50/2015

GULAB BOTHRA

..... Petitioner

Through: Mr. Jayendra Sevada, Advocate

versus

STATE

..... Respondent

Through: Ms. Nishi Jain, Additional Public
Prosecutor for State with Inspector
Yudhbir Singh
SI Richh Pal, SHO/Mahila Thana,
Bikaner, Rajasthan

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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Quashing of order of 3rd September, 2014 is sought in this petition on the ground that cause of action for filing the FIR for the offences under Sections 498A/406/506 of *IPC* was very much there within the jurisdiction of Police Station Sangam Vihar, Delhi.

At the hearing, learned counsel for petitioner submits that so far as allegation of offence under Section 506 of *IPC* is concerned, the cause of action arose in Bikaner, Rajasthan but petitioner was thrown out of her matrimonial house at Bikaner in April, 2007 and she had come to her brother's place at Delhi where a demand of ₹1,00,000/- was made on telephone by her sister-in-law (*Nanand*)

with the threat that if she does not pay ₹1,00,000/- for inauguration (*Moohurat*) of the house [which was to be constructed by petitioner's sister-in-law (*Nanand*)] then she cannot return back to her matrimonial house in Bikaner, Rajasthan. As per the FIR, the said demand was met and petitioner returned back to her matrimonial house in Bikaner, Rajasthan.

Learned counsel for petitioner submits that since the cause of action arose within the territorial jurisdiction of this Court, so the impugned orders deserve to be quashed.

Attention of this Court is drawn to the order of 27th October, 2014 whereby the matrimonial case of petitioner's husband was transferred by Apex Court from Bikaner, Rajasthan to Delhi. Learned counsel for petitioner submits that the matrimonial case was for restitution of conjugal rights filed by petitioner's husband and the said case was transferred to Delhi as petitioner is residing in Delhi since May, 2013. It is pointed out by petitioner's counsel that the DV Act proceedings and proceedings under Section 125 Cr. P.C. have been initiated by petitioner against her husband in Delhi in the year 2013 and they are pending before Delhi Courts and so this FIR as well as the impugned order deserve to be set aside and the trial of this FIR case now registered in Bikaner be conducted in Delhi.

Ms. Nishi Jain, learned Additional Public Prosecutor for State, on instructions, submits that upon transfer of Zero FIR to Bikaner, Rajasthan, investigation was conducted in which the petitioner had participated and thereafter the charge-sheet has been

filed on the basis of averments in Zero FIR and the charge-sheet has been filed for the offences 498-A/406 of IPC at Mahila Thana, Bikaner, Rajasthan.

Upon hearing and on perusal of the impugned orders, Zero FIR (*Annexure-D*), I find that substantial cause of action has arisen within the territorial jurisdiction of Bikaner Courts in Rajasthan and so there is no palpable error in the impugned order. Mere transfer of petition for restitution of conjugal rights from Bikaner to Delhi Courts would not justify the trial in the Zero FIR within the territorial jurisdiction of Delhi Courts.

At this stage, learned counsel for petitioner submits that this petition be disposed of as not pressed as he has instructions from petitioner to get the FIR No. 46/2014 under Section 498A/406/34 IPC at Mahila Thana, Bikaner, Rajasthan transferred from Bikaner Courts, Rajasthan to Courts at Delhi as other litigation of petitioner is also pending before the Delhi Courts.

It is open for the petitioner to do so. However, while not commenting upon the merits, this petition is accordingly dismissed.

(SUNIL GAUR)
JUDGE

MARCH 11, 2015
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