

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDERS RESERVED ON 23.09.2016)

Date of Verdict: 25.10.2016

CORAM

THE HONOURABLE MR.JUSTICE **G.CHOCKALINGAM**

CRIMINAL REVISION CASE No.942 of 2016
and
CRL.M.P.No.7379 of 2016

1.P.Madheswaran

2.P.Rukkumani

3.P.Ravi

4.C.Papathy

5.Murugesan

6.Baby @ Sarojini

7.Chinnasamy

.. Petitioners

vs.

Inspector of Police,
All Women Police Station,
Tiruchengode,
Rep- APP
State of Tamilnadu

.. Respondent

Criminal Revision Case filed under Sections 397 and 401 of Code of Criminal Procedure praying to set aside the order dated 23.03.2016 passed in C.M.P.No.1381 of 2016 in C.C.No.95 of 2013 on the file of the learned Judicial Magistrate, Tiruchengode and call for the records and acquit the petitioners from all the charges.

For Petitioners ... Mr.S.Vinod

For Respondent ... Ms.M.F.Shabana
Govt. Advocate (Crl.side)

O R D E R

This Criminal Revision Case is directed against the order dated 23.03.2016 passed in C.M.P.No.1381 of 2016 in C.C.No.95 of 2013 on the file of the learned Judicial Magistrate, Tiruchengode.

2. The learned counsel for the revision petitioners mainly contended that the learned Magistrate without considering the facts and circumstances of the case, dismissed the discharge petition filed by the revision petitioners. Further, the learned counsel for the revision petitioners contended that the learned Magistrate failed to take into consideration the reports of the District Social Welfare Department wherein, it has been stated that the revision petitioners have not harassed the de facto complainant and the de facto complainant along with her husband shifted their nuclear family to

Bangalore within a week of their marriage and thereafter to USA. Hence, the allegations stated against the revision petitioners had never happened within the jurisdiction of this Court and ought to have happened at USA and Bangalore. Therefore, the Police Station at Thiruchengode has no jurisdiction and it does not cover under the jurisdiction of the learned Judicial Magistrate, Tiruchengode. Hence, from the above facts, it is clear that no offence was committed by the revision petitioners and the trial Court has no jurisdiction to try the case.

3. Moreover, the learned counsel for the revision petitioners contended that as per the settled principles of law, if the offence was not committed within the jurisdiction of the trial Court, the trial Court should not try the case. In this case, the trial Court, on the contrary, without jurisdiction, took the complaint on file and erroneously dismissed the discharge application filed by the revision petitioners. The learned counsel also contended that as per Section 188 of the Code of Criminal Procedure, if the offence is committed outside the jurisdiction of India, either the respondent police or the de facto complainant has to obtain permission from the Central Government. In this case, they have not obtained any permission from the Central Government. Hence, this Court has no jurisdiction

to proceed with the case. Thus, he prayed that the order passed by the learned Magistrate has to be set aside and the criminal revision case may be allowed.

4. The learned Government Advocate (Criminal Side) mainly contended that the trial Court, after considering the entire evidence and the statement recorded by the Investigating Officer, came to the conclusion that the cause of action arose at Tiruchengode and the offence stated in the charge sheet is a continuous one and there is no necessity to obtain permission from the Central Government and rightly dismissed the petition.

5. Further, the learned Government Advocate (Criminal side), submitted that it is the settled principles of law that if a part of the occurrence has occurred within the jurisdiction and the offence appeared to be a continuous one, the trial Court has jurisdiction to proceed with the case. Therefore, the criminal revision petition is liable to be dismissed.

6. In support of her contention, the learned Government Advocate (Criminal Side) relied on the decision of the Apex Court in

SUNITA KUMARI KASHYAP VS. STATE OF BIHAR AND ANOTHER (CDJ 2011 SCC [404]), wherein, in paragraphs 11 and 12, the Supreme Court has held as follows:

"11. We have already adverted to the details made by the appellant in the complaint. In view of the specific assertion by the appellant-wife about the ill-treatment and cruelty at the hands of the husband and his relatives at Ranchi and of the fact that because of their action, she was taken to her parental home at Gaya by her husband with a threat of dire consequences for not fulfilling their demand of dowry, we hold that in view of Sections 178 and 179 of the Code, the offence in this case was a continuing one having been committed in more local areas and one of the local areas being Gaya, the learned Magistrate at Gaya has jurisdiction to proceed with the criminal case instituted therein. In other words, the offence was a continuing one and the episode at Gaya was only a consequence of continuing offence of harassment of ill-treatment meted out to the complainant, clause (c) of Section 178 is attracted. Further,

from the allegations in the complaint, it appears to us that it is a continuing offence of ill-treatment and humiliation meted out to the appellant in the hands of all the accused persons and in such continuing offence, on some occasion all had taken part and on other occasion one of the accused, namely, husband had taken part, therefore, undoubtedly clause (c) of Section 178 of the Code is clearly attracted.

12. In view of the above discussion and conclusion, the impugned order of the High Court holding that the proceedings at Gaya are not maintainable due to lack of jurisdiction cannot be sustained. The impugned order of the High Court dated 19.03.2010 in Criminal Misc. No.4278 of 2009 and another order dated 29.04.2010 in Criminal Misc. Case No.45153 of 2009 are set aside. In view of the same, the SDJM, Gaya is permitted to proceed with the criminal proceedings in trial Nos.1551 of 2008 and 1224 of 2009 and decide the same in accordance with law. It is made clear that we

have not expressed anything on the merits and claims of both parties and our above conclusion is confined to the territorial jurisdiction of the Court at Gaya. Both the criminal appeals are allowed."

7. I have considered arguments of the learned counsel for the revision petitioners and the learned Government Advocate (Criminal side) and perused the materials available on record.

8. It is useful to refer Section 188 of the Code of Criminal Procedure and the same reads as follows:

"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."

9. On a perusal of the records, it is seen that already List of Witnesses 1, 2, 4, 6 were examined as P.Ws.1 to 4 and they were also cross examined by the revision petitioners.

10. In view of the above facts and circumstances of the case and in the light of the decision rendered in **SUNITA KUMARI KASHYAP VS. STATE OF BIHAR AND ANOTHER (cited supra)**, this Court has come to the conclusion that in this case, part of the cause of action arose within the jurisdiction of the trial Court and the nature of the offence stated

in the charge sheet is a continuous one, hence, the trial Court has jurisdiction to try the case. Therefore, the contention of the learned counsel for the revision petitioners that the trial Court has no jurisdiction to proceed with the case is untenable and the same is unacceptable.

11.In the result, the order passed in C.M.P.No.1381 of 2016 in C.C.No.95 of 2013 on the file of the learned District Judicial Magistrate, Tiruchengode is confirmed and the criminal revision case is dismissed. Consequently, connected miscellaneous petition is closed.

25.10.2016

Index:Yes/No
Internet:Yes/No

Note:

Issue order copy
on 26.10.2016
To

- 1.The Judicial Magistrate,
Thiruchengode.
- 2.The Public Prosecutor,

High Court, Madras.

G.CHOCKALINGAM.J

cla

**Pre-delivery order in
Crl.R.C.No.942 of 2016**

25.10.2016

In support of his contention, the learned counsel for the revision petitioners relied on the following Apex Court judgments.

1. "Geeta Malhotra Vs. State of UP"
2. "Y.Abraham Ajith Vs. Inspector of Police"
3. "Niraj Trivedi Vs. State of Bihar"
4. "Preeti Gupta & Anr. V. State of Jharkhan AIR 2010 SC 3363
and in "Neera Singh Vs. State of Delhi AIR 1996 SC 67.