

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

Crl.P.No.13376 of 2016

ORDER:

This Criminal Petition under Section 482 of Cr.P.C. is filed to quash the proceedings in Crime No.623 of 2016 on the file of KPHB Colony, Police Station, Cyberabad, on the sole ground that the Cyberabad Police has no jurisdiction to entertain this Crime since no part of cause of action arose within their jurisdiction limits of the police station concerned and that the alleged incident of rape took place only within the limits of Amalapuram.

Though several contentions are raised by the learned counsel for the petitioner, but during hearing, his argument is only with regard to territorial jurisdiction of the KPHB Colony police station and while reiterating the said contention drawn the attention of this Court to a judgment reported in ***Y. Abraham Ajith and others v. Inspector of Police, Chennai and another¹ and Bhura Ram and others v. State of Rajasthan and another²***.

As seen from the allegations made in the complaint dt. 6.8.2016, the *de facto* complainant is resident of KPHB Colony and working as an employee in Nexell Laboratories Private Limited, Near Temple Bus Stop, III Phase, Residence H.No.LIG-26, Beside R.S.Brothers, Sri Pravallika Hostel, Road No.2. The main allegation against the petitioner is that he is a sales executive of Nexell Laboratories Private Limited, Amalapuram, and he developed contact with *de facto* complainant by phone as he used to made calls to her office and thereafter they became friends and

¹ (2004) 8 SCC 100

² AIR 2008 SC 2666

later their friendship became as love and the petitioner made a promise to marry her. On account of their love, he booked bus tickets to go to Amalapuram in the year 2015 for *de facto complainant* and after reaching Amalapuram, he booked one room at Vodalarevu Resorts, Amalapuram as their family members were not there in the house and misrepresenting her, he had sexual intercourse with her in the hotel room for five or six times and later she came back to KPHB colony. When she insisted him for marriage, he again took tickets to her to go to Amalapuram and when she went to his house, none were found at his house and on enquiry, he informed that they went to some other village and they will come on next day. Again, he had sexual course with her for two or three times against her consent. When he refused to marry her, she started enquiring about the petitioner and then she came to know that betrothal ceremony of the petitioner was performed and his marriage was settled with another women. Thereby, she made an attempt to commit suicide and on information, the petitioner had promised her to come back to KPHB, but he did not turn up. Again she went to Amalapuram and again she was taken to Vodalarevu with deceitful words and had sexual intercourse with her against her consent. Thus, the petitioner allegedly made a promise to marry her while she was at KPHP and took tickets by shifting her to Amalapuram and had sexual intercourse five or six times initially in the year 2015. Again against her consent, he had sexual course with her at his house at Amalapuram when her relatives were out of station and again at Vodalarevu. Thus, on the complaint lodged by the *de facto complainant*, the Police KPHB

colony registered the complaint against the petitioner seizing jurisdiction over the area where the offence is committed.

The only contention urged before this Court is that the Police at Amalapuram alone are competent to enquire into the offences and not KPHB Colony Police and drawn the attention of this Court to a judgment of Apex Court reported in **Y. Abraham Ajith's** case, where the Supreme Court discussed about the cause of action for filing complaint in para No.13 onwards and when the incident took place at a particular place, the Police within whose jurisdiction the incident took place alone are competent to enquire into the offence under Section 177 of Cr.P.C. Similarly, in **Bhura Ram's** case, the same issue was reiterated.

There is no quarrel about the law declared by the Apex Court and even 177 Cr.P.C. says that every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed. But, Section 178 of Cr.P.C. deals with Place of inquiry or trial: (a) when it is uncertain in which of several local areas an offence was committed, or (b) where an offence is committed partly in one local area and partly in another; or © where an offence is continuing one, and continues to be committed in more local areas than one, or (d) where it consists of several acts done in different local areas. It may be enquired into and tried by a Court having jurisdiction over any of such local areas.

Here, a promise was made to marry her and booked tickets to her to travel from KPHB to Amalapuram by the petitioner himself and made her to reach Amalapuram from KPHB and

therefore, the promise made to the *de facto* complainant to marry her is the starting point for cause of action and the offence under Section 376 IPC allegedly took place only at Amalapuram or Vodalarevu. But, he committed two offences, one is under Section 417 IPC and the other is under Section 376 IPC. But, the offence of making false promise to marry her and shifting her to Amalapuram booking tickets for her travelling from KPHB to Amalapuram is beginning of offence and thus the Police at Amalapuram are having jurisdiction to register the complaint against the petitioner.

Even otherwise, in a judgment report reported in ***Satvinder Kaur vs State (Govt. Of N.C.T. Of Delhi)***³, the Apex Court while discussing Section 178 (c) Cr.P.C. held that when it is uncertain in which of the several local areas an offence was committed, or where it consists of several acts done in different local areas, the said offence can be inquired into or tried by a Court having jurisdiction over any of such local areas. Therefore, at the investigation stage, it cannot be said that SHO has no jurisdiction.

Now the case is at the stage of investigation. If the police found that no offence is made out within their local area, the police may take necessary steps for transfer of the crime to the police concerned having jurisdiction to try the offence. Therefore, at the stage of investigation, it is difficult to hold that the S.H.O, KPHB colony has no jurisdiction at this stage, by applying the principle laid down in ***Satvinder Kaur's*** case, and it is difficult to quash entire proceedings for serious offence of rape and breach of

³ 1999 8 SCC 728

promise to marry the *de facto* complainant. Hence, I find no ground to quash the proceedings at this stage.

Accordingly, this Criminal petition is dismissed.

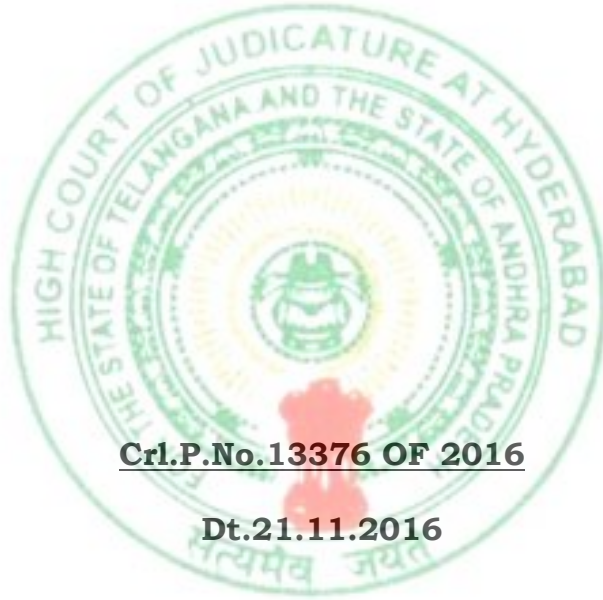
Miscellaneous Petitions, if any, pending in this Criminal Petition, shall stand closed.

M. SATYANARAYANA MURTHY, J

November 21, 2016.
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THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY



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Dt.21.11.2016

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