

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.16531 OF 2016

ORDER:

This criminal petition, under Section 482 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), is filed to quash the proceedings against the petitioners in C.C. No.256 of 2016 pending on the file of Additional Judicial Magistrate of First Class, Giddaluru, Prakasam District.

The present petition is filed only on the ground that the court before which the C.C. No.256 of 2015 is pending lacks jurisdiction, since the entire incidence of alleged cruelty took place within the territorial limits of Judicial Magistrate of First Class, Kadapa, but not within the territorial limits of Judicial Magistrate of First Class, Giddaluru.

Learned counsel for the petitioner drawn the attention of this Court to a Judgment of the Apex Court in **Y.ABRAHAM AJITH AND OTHERS v. INSPECTOR OF POLICE, CHENNAI AND ANOTHER¹** and the Judgment of this Court in **AMIT KUMAR YADAV AND OTHERS v. STATE OF TELANGANA AND ANOTHER²** in support of his contention.

If the contention of the petitioner is accepted, the entire alleged incident of cruelty took place within the territorial limits of Judicial Magistrate of First Class, Kadapa, and the Judicial Magistrate of First Class at Giddaluru lacks jurisdiction.

In **Y.ABRAHAM AJITH's** case, the Apex Court held at paragraph 9 as follows:

¹ (2004) 8 SCC 100

² 2016(1) ALD (CrL.) 667

“All crime is local, the jurisdiction over the crime belongs to the country where the crime is committed”, as observed by Blackstone. A significant word used in Section 177 of the Code is "ordinarily". Use of the word indicates that the provision is a general one and must be read subject to the special provisions contained in the Code. As observed by the Court in *Purushottamdas Dalmia v. State of West Bengal*(AIR 1961 SC 1589), *L.N.Mukherjee V. State of Madras* (AIR 1961 SC 1601), *Banwarilal Jhunhunwalla and Ors. v. Union of India and Anr.*(AIR 1963 SC 1620) and *Mohan Baitha and Ors. v. State of Bihar and Anr.*(2001 (4) SCC 350), exception implied by the word "ordinarily" need not be limited to those specially provided for by the law and exceptions may be provided by law on consideration or may be implied from the provisions of law permitting joint trial of offences by the same Court. No such exception is applicable to the case at hand.”

Similarly, in **AMIT KUMAR YADAV**'s case this Court held at paragraph 8 as follows:

“8. This Court also in this regard dealt in detail in Crl.P.No.5324 of 2015 dated 01-09-2015 by referring to catena of decisions including Division Bench of this Court in *Inder Raj Agarwal v. Union of India* (2015) 4 ALT 596 DB). Thus the complaint filed by the de facto complainant that was referred to the police investigation by the Magistrate and the police final report filed pursuant thereto is the outcome from the suppression of material fact of earlier deed of divorce between the de facto complainant and A-1 through elders amicably and the same reiterated referring in the settlement executed immediately after 04-06-2014 some settlement arrived earlier at Godavarikhani of Karimnagar District also from the panchayhath held and pursuant to which, the items belongs to the de facto complainant and her father lying with accused persons were also returned, the continuation of criminal proceedings there is nothing but abuse of process as held in expressions referred supra as

it is a fit case to quash the calender case. It is also needless to say as held in Y.Abraham Ajith v. Inspector of Police, Chennai ((2004) 8 SCC 100). That the complaint itself discloses while the de facto complainant residing with accused at his place and came out from there i.e. the main cause of action besides marriage in occurring some cause of action to maintain the complainant at her place of parents not sustainable by referring to Section 177 and 178 Cr.P.C.”

Even otherwise, Section 178 of Cr.P.C. deals with place of enquiry or trial, when it is uncertain in which of several local areas an offence was committed, or where an offence is committed, partly in one local area and partly in another, or where an offence, is a continuing one, and continues to be committed in more local areas than one, or where it consists of several acts done in different local areas, it may be inquired into or tried by a Court having jurisdiction over any of such local areas. In such case if the court finds, making necessary enquiry, that the court lacks jurisdiction, left open to the court to return the complaint for presentation before the competent court having territorial jurisdiction by following the procedure prescribed under Section 177 of Cr.P.C. and coupled with the law declared in judgments referred supra.

In those circumstances, it is not a fit case to quash the proceedings in C.C.No.256 of 2016 against the petitioners. However the learned Magistrate is directed to decide the territorial jurisdiction of the court after making necessary enquiry, take appropriate steps following the principles laid down in the judgments referred above.

- 4 -

With the above direction, the criminal petition is disposed of at the stage of admission.

Miscellaneous petitions, if any, pending in this criminal petition shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 06.12.2016
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