

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Crl. Misc. No. M-31656 of 2016

Date of decision:- 09.09.2016

Abhishek Gulia and others

...Petitioners

Versus

State of Haryana and anr.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Ms. Loveleen Dhaliwal, Advocate
for the petitioners.

RITU BAHRI J.(Oral)

Challenge in the present petition is to order dated 23.08.2016 passed by Addl. Sessions Judge, Rohtak whereby the revision petition filed against the order dated 19.10.2015 (Annexure P-1) passed by learned Civil Judge (Jr. Divn.)/ Judicial Magistrate 1st Class, Rohtak has been dismissed.

Brief facts of the case are that petitioner No. 1 got married to respondent No. 2 on 02.06.2013 at Vasant Kunj, New Delhi, as per Hindu rites and ceremonies. Petitioner No. 1 and respondent No. 2 were living at the house of petitioner No. 1 along with petitioner Nos. 2 to 4. Petitioners are permanent resident of Vasant Kunj, New Delhi and respondent No. 2 is a permanent resident of Vasant Kunj, New Delhi. Respondent No. 2 left the company of petitioner of her own free will on 01.12.2013 and took all the valuable including clothes and jewellery with her.

Respondent No. 2 thereafter, moved an application to Senior Supdt of Police, Rohtak for registration of F.I.R against the petitioner alleging that after few days of her marriage, the behaviour of her in-laws was insulting and her father-in-law asked her to bring luxury car. On showing her compulsion, she was given beatings by her husband and

mother-in-law. She was treated with cruelty in connection with demand of dowry. Her brother-in-law used to keep a bad eye on her and tried to touch her body and was asked to get 50% of share in her father's business at Rohtak. On showing compulsion, she was asked to leave alone in her father's flat in Vasant Kunj. On 14.07.2014, she was again given merciless beatings by the petitioners and was thrown out of matrimonial home. Thereafter, the present F.I.R was registered against the petitioners. The investigating officer prepared a rough site plan and got recovered the dowry articles. Statement of the witnesses were recorded and after completion of the investigation, final report under Section 173 Cr.P.C was submitted in the Court.

Learned counsel for the petitioners has argued that the marriage of the complainant took place in Delhi and the complainant after her marriage never resided at Rohtak. Further she filed her complaint in Najafgarh Police Station and not even a single line was mentioned in the complaint that she was harassed in Rohtak, thus, the learned Courts at Rohtak have no jurisdiction to entertain the case.

To deal with this argument, reference can be made to Section 181(4) Cr.P.C which reads as under:-

(4) Any offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or any part of the property which is the subject of the offence was received or retained, or was required to be returned or accounted for, by the accused person."

As per the above said provision, the dowry articles have to be returned at a place where the complainant is residing and it will be that Court which will have the territorial jurisdiction to try the offence. Therefore, so far as an offence of criminal breach of trust regarding stridhan

property is concerned, there cannot be any prior agreement for return thereof at a particular place.

The learned Additional Sessions Judge while dismissing the revision filed by the petitioners has held that the accused are duty bound to hand over the istridhan at Rohtak where the complainant is residing. Reference was made to judgments of this Court in a case of ***Samrat Kaushik and others vs. State of Haryana and anr, 2007(1) RCR (Crl) 328 and Gagandeep Kaur vs. Senior Supdt of Police, U.T Chandigarh and others, 2009(1) R.C.R (Crl) 394*** wherein it has been categorically held that the Court at the place where the property is required to be returned will also have the territorial jurisdiction to try the offence.

Learned counsel for the petitioners has relied upon a judgment of Hon'ble the Supreme Court of India in a case of ***Bhura Ram and others v. State of Rajasthan and anr, 2008(2) R.C.R (Crl) 761.***

The above said judgment has already been discussed by the learned Additional Sessions Judge while dismissing the revision petition filed by the petitioners. Further Hon'ble the Supreme Court in a case of ***Sunita Kumari Kashyap vs. State of Bihar and another passed in Crl. Appeal No. 917 and 918 of 2011, decided on 11.04.2011*** wherein ***Bhura Ram case (supra)*** was discussed. In this case as well, the complainant married in Ranchi and her parents lived in Gaya, she was thrown out of her matrimonial home and she went to her parental home at Gaya and filed a complaint at Gaya. However, on the petition filed by her husband, the High Court held that the proceedings at Gaya are not maintainable due to lack of jurisdiction. However, Hon'ble the Supreme Court allowed the appeal of the complainant and held that since the husband had pressuring the complainant

to get her father's house in his name, which was at Gaya, thus, the Court at Gaya had the jurisdiction to try the offence. In para 11, it has been observed as under:-

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 illtreatment 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 illtreatment 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.

Reference was made to a case of ***Sujata Mukherjee (Smt) vs.***

Prashant Kumar Mukherjee, (1997) 5 SCC 30, similar issue was considered by this Court and found that clause (c) of Section 178 of the Code is attracted and the Magistrate at wife's parents' place has also jurisdiction to entertain the complaint. In the said decision, wife was the appellant before this Court and the respondents were the husband, parents-in-law and two sisters-in-law of the appellant Sujata Mukherjee. The gist of the allegation of the appellant, Sujata Mukherjee was that on account of dowry demands, she had been maltreated and humiliated not only in the house of her in-laws at Raigarh but as a consequence of such events, the husband of the appellant had also come to the house of her parents at Raipur and assaulted her. On behalf of the respondents therein, it was contended before the learned Chief Judicial Magistrate, Raipur that the criminal case was not maintainable before the said learned Chief Judicial Magistrate because the cause of action took place only at Raigarh which was outside the territorial jurisdiction of the learned Magistrate at Raipur. A prayer was also made to quash the summons issued by the learned Chief Judicial Magistrate by entertaining the said complaint of Smt Mukherjee. As the Chief Judicial Magistrate was not inclined either to quash the summons or to transfer the criminal case to the competent court at Raigarh, the criminal revision petitions were filed before the High Court, one by all the five respondents and another by four of the respondents excluding the husband presumably because there was specific allegation against the husband that the husband had also gone to Raipur and had assaulted the appellant and as such the husband could not plead want of territorial jurisdiction. Both the said criminal revision cases were disposed of by a common order dated 31.08.1989 by the High Court holding that the case against the husband of

the appellant alone is maintainable and in respect of other respondents related to the incidents taking place at Raigarh, hence, the criminal case on the basis of complaint made by the appellant is not maintainable at Raipur. The said order of the High Court was challenged by the appellant-Sujata Mukherjee in this Court. It was submitted that it will be evident from the complaint that the appellant has alleged that she had been subjected to cruel treatment persistently at Raigarh and also at Raipur and incident taking place at Raipur is not an isolated event, but consequential to the series of incidents taking place at Raigarh. Therefore, it was contended that the High Court was wrong in appreciating the scope of the complaint and proceeding on the footing that several isolated events had taken place at Raigarh and one isolated incident had taken place at Raipur. This Court basing reliance on Section 178 of the Code, in particular clauses (b) and (c), found that in view of allegations in the complaint that the offence was a continuing one having been committed in more local areas and one of the local areas being Raipur, the learned Magistrate at Raipur had jurisdiction to proceed with the criminal case instituted in such court. Ultimately, accepting the stand of the appellant, this Court held as under:

“We have taken into consideration the complaint filed by the appellant and it appears to us that the complaint reveals a continuing offence of maltreatment and humiliation meted out to the appellant in the hands of all the accused respondents and in such continuing offence, on some occasions all the respondents had taken part and on other occasion, one of the respondents had taken part. Therefore, clause (c) of Section 178 of the Code of Criminal Procedure is clearly attracted.”

In the present case as well, the brother-in-law of the complainant asked the complainant to get 50% of share in her father's business at Rohtak. Thus, in the present case as well, the offence was a continuing one and the episode at Rohtak was only a consequence of continuing offence of harassment of illtreatment meted out to the complainant, clause (c) of Section 178 is attracted.

In view of the above discussion and conclusion, no ground is made out to quash order dated 23.08.2016 and 19.10.2015, as the Court at Rohtak had the jurisdiction to try the offence, as held by both the Courts below.

The petition is dismissed.

September 09, 2016
G Arora

(***RITU BAHRI***)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>