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HIGH COURT OF DELHI AT NEW DELHI

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FAO 137/2015

Decided on: 15th January, 2016

ROSHAN LAL & ORS

..... Appellants

Through: Mr. C.S. Dahiya, Advocate.

versus

SHAKUNTALA DEVI

..... Respondent

Through: Nemo.

CORAM:

HON'BLE MR. JUSTICE V.K. SHALI

V.K. SHALI, J. (Oral)

1. This is an appeal filed by the appellant against the order dated 18.02.2015, by virtue of which the learned trial court has rejected the suit of the appellant bearing No.24/2015 titled Roshan Lal and Others Vs. Shakuntla Devi, in which the stated facts of the case are that plaintiff No.3 Smt. Seema Devi got married to son of the defendant Shakuntla Devi. Plaintiff No.1 is father of plaintiff No.3. Plaintiff No.2 is the brother of Smt. Seema Devi and plaintiff no.4 is the mother. Smt. Shakuntla Devi has purportedly filed a criminal complaint against the present appellants in Agra in

the year 2012 in the court of ACJM, Agra. Apparently it is seen that there was some matrimonial discord between appellant No.3 and the son of the respondent. The court of ACJM, Agra issue non-bailable warrants to SHO, P.S. Ranhola for the purposes of attendance of the appellant before the Court of ACJM.

2. The appellants feeling aggrieved by virtue of issuance of warrants by the ACJM, Agra, filed a petition before the Allahabad High Court, which granted the requisite relief to the appellant, inasmuch as it was directed that no coercive steps would be taken against the appellants for procuring the attendance before the court of ACJM and the appellants shall file an application under Section 245 (2) Cr.P.C. for their discharge. On such an application having been filed the ACJM granted the requisite relief to the appellants.
3. The appellants, as a consequence of being discharged in the said criminal proceedings by the court of ACJM, filed a suit for malicious prosecution against the respondent and have sought damages. In para 17 of the plaint the following averments were

made with regard to the court in Delhi having the territorial jurisdiction to try the matter:-

“17. That the plaintiffs is residing within the jurisdiction of the Hon’ble Court and the NBW issued against the plaintiffs were sent for execution at police station Ranhola, Delhi and the plaintiff No.3 is residing with her parents as the matrimonial family members had thrown her out and the cause of action has arisen within the jurisdiction of the Hon’ble Court and hence the Hon’ble Court has jurisdiction to entertain the present suit.”

4. Learned court after consideration of the matter arrived at a conclusion that the plaint be liable to be rejected under Order 7 Rule 10 CPC, as the court did not have the territorial jurisdiction to try the matter. The present appellants feeling aggrieved have filed the present appeal.
5. I have heard the learned counsel for the appellant. He has placed reliance on judgments of three courts including of Delhi High Court in case titled as *Sh. Surat Singh Vs. Municipal Corporation of Delhi* reported at AIR 1989 DELHI 51, in support of his submission that the Delhi High Court has the jurisdiction.

6. I have gone through the said judgments except the judgment in *Dr. R.P. Goala Vs. Amarpal Singh reported as AIR 1972 Rajasthan 142 (V.59 C.39)*. The two judgments are of no relevance to the facts of the present case.
7. I have also considered the submissions made by the learned counsel for the appellants carefully. If one sees the jurisdiction clause of the plaint, it does not talk about the residence or the place of work of the defendant. On the contrary, it talks about the residence and place of work of the plaintiff, which can hardly be a ground of forming jurisdiction to the Delhi. Section 20 of the CPC is very clear that there are three places, which will have the territorial jurisdiction to entertain the suit, these are; where the defendant resides, works or where the cause of action has accrued in full or in part. Thus, so far as the first two conditions are concerned, the appellants are not banking on the same. The learned counsel for the appellants has placed reliance on the third condition that the cause of action of filing the suit for malicious prosecution has arisen in Delhi on account of the fact that the local

police of P.S. Ranhola had come to execute the warrants purported to have been issued by ACJM, Agra, and, therefore, Delhi court had the jurisdiction.

8. I do not agree with this contention of the learned counsel for the appellant that a part of the cause of action has arisen in Delhi on account of non-bailable warrants having been issued by the ACJM and sent to the SHO P.S. Ranhola for the purpose of execution. Delhi Courts would have a jurisdiction only if the warrants were executed in Delhi. In the absence of the execution, Delhi Courts have no jurisdiction, as no part of cause of action has arisen in Delhi. It is precisely for these reasons that the appellants himself have gone to Allahabad High Court against the issuance of warrants against him. The judgment which has been relied upon by the learned counsel for the appellant in *Dr. R.P. Goala's* case, would not be applicable to the facts of the present case for the simple reason that in the said case under somewhat similar circumstances, the court came to entertain the suit on account of the court in Jodhpur having territorial jurisdiction. This was

because of the fact that in the said case a criminal complaint was filed against the plaintiff who was an officer in the India Air Force. When the summons were served on the plaintiff, he was posted at Jodhpur. Therefore, the court came to the finding that as the plaintiff was posted at Jodhpur, the part of action has arisen in Jodhpur and thus, the suit for defamation was maintainable at Jodhpur.

9. This is unlike in the present case where although non-bailable warrants issued, but they were not executed and, therefore, it cannot be said that any part of cause of action had accrued to the appellants in Delhi. For these reasons, I feel that the appeal, which had been filed by the appellants is without any merit and the trial court has rightly rejected the plaint of the appellants.
10. In view of the foregoing discussion, I feel that the appeal is without any merit and the same is accordingly dismissed.
11. Pending application also stands disposed of.

JANUARY 15, 2016 / N

V.K. SHALI, J.