

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CRR No. 3618 of 2016(O&M)

Date of decision : 01-02-2017

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Manish Tandon and another

.....Petitioners

Versus

State of Haryana and another

.....Respondents

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Manish Tandon, Petitioner in person.

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RITU BAHRI, J.

Crl.Misc. No. 34710 of 2016

C.M is allowed.

Documents are taken on record.

CRR No. 3618 of 2016

This revision petition has been filed against the order dated 13.9.2016 (Annexure P-7), whereby the Judicial Magistrate First Class, Sonapat has dismissed an application filed under Section 177 Cr.P.C and Section 239 Cr.P.C filed by petitioners/accused no. 1 & 2 arising out of case No.11-1, FIR No.6 dated 12.02.2012, State vs. Manish Tandon and another under Sections 498-A, 406, 420, 323, 506 & 34 IPC lodged by respondent no.2 at Women Police Station, Sonapat against petitioners.

As per the allegations levelled in the FIR, the petitioner no.1 Manish Tandon and petitioner no.2 Meenakshi Tandon used to pressurize Ankita Bhutani, complainant-respondent no.2 to bring more jewellery and

money from her mother. It was further alleged that the accused persons abused the complainant on 7.11.2011 and threatened to kill her in case the demands of the accused were not fulfilled. On 8.12.2011, the accused allegedly started fighting with the complainant on the issue of money and both the accused gave her beatings and tried to strangle her.

In the applications filed under Section 177 of Cr.P.C and Section 239 Cr.P.C, the applicants/petitioners pleaded that all the articles of dowry were recovered and delivered to the complainant at Faridabad and that no part of the offence as alleged was committed at Sonapat and hence Sonapat Courts have no jurisdiction to hear and try the case. The petitioners had also filed Crl. Misc. No. M-12769 of 2014 before this Court on 9.4.2014 for quashing of the FIR on similar grounds. Vide order dated 10.4.2015, the petition was dismissed. Further petitioner filed a transfer petition Crl. No.350 of 2013 for transfer of the present proceedings in FIR No. 6 dated 12/02/2012 from the Court of Judicial Magistrate Ist Class Sonapat, Haryana to any other place out of the State of Haryana. The said petition was dismissed on 13.12.2013. Review petition was also dismissed on 13.2.2014. The petitioners had also filed Crl. Misc. No. M-12769 of 2014 before this Court on 9.4.2014 for quashing of the FIR on similar grounds. Vide order dated 10.4.2015, the petition was dismissed. They also filed Crl.Misc. No. M-14198 of 2015 seeking transfer of the trial in the present FIR on the ground which was dismissed vide order dated 26.2.2016.

Keeping in view the above facts, the impugned order has been passed dismissing the application filed under Section 177 Cr.P.C under Section 239 Cr.P.C while holding that the Sonapat Court has the Jurisdiction to try and hear the case.

After hearing counsel for the petitioners in person and going through the allegations set out in the FIR, this Court is of the view after coming back from the matrimonial house at Sonapat, the cause of action accrued to the complainant to get the FIR registered at Sonapat and this aspect has been considered by Hon'ble the Supreme Court in the case of ***Sunita Kumari Kashyap vs. State of Bihar and another, 2011 AIR (SC) 1674***. In paragraph 11 & 12, 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 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. 42478 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.

In view of all that has been discussed above and in view of the judgment in the case of *Sunita Kumari Kashyap (supra)*, present revision petition is dismissed.

01-02-2017

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(RITU BAHRI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No