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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 3613/2016

VINOD KUMAR AWASTHI

..... Petitioner

Through: Mr.Anurag Kishore, Advocate

versus

STATE OF NCT & ANR

..... Respondents

Through: Mr.Rajesh Mahajan, ASC for the
State with SI Rajpal, PS Uttam Nagar.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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31.10.2017

W.P.(CRL) 3613/2016

1. The petitioner has invoked the writ jurisdiction of this Court under Article 226 of the Constitution of India seeking quashing of the FIR No.126/2016 under Sections 498A/406 IPC registered at PS Uttam Nagar with the following prayer:

“Quash the FIR No.126 of 2016 filed by the Respondent No.2 against the Petitioner on 06.02.2016 at Police Station Uttam Nagar, New Delhi;”

2. Heard learned counsel for the petitioner and APP for the State.

3. Learned counsel for the petitioner has submitted that the FIR No.126/2016 has been registered by respondent No.2/complainant at Police Station Uttam Nagar just to harass the petitioner despite the fact that no apparent cause of action has arisen in Delhi or within the local

jurisdiction of Police Station Uttam Nagar, Delhi. The offence, if any, committed by the petitioner, falls within the jurisdiction of the State of Uttar Pradesh as the petitioner and respondent No.2 both are permanent resident of Uttar Pradesh and there is no whisper of any incident having taken place within the jurisdiction of Police Station Uttam Nagar.

4. Learned counsel for the petitioner has relied upon decision of the Hon'ble High Court of Allahabad at Lucknow in ***Satish Kohli and Anr. vs. State of U.P. and Ors.*** (2014) SCC Online All 16370 and ***Rupali Devi vs. State of U.P.*** 2011 SCC Online All. 1215 in support of his submissions.

5. Learned ASC for the State Mr.Rajesh Mahajan has submitted that the instant case is under Section 498A & 406 IPC and in view of the provisions of Section 181(4) of the Code of Criminal Procedure the investigation can be conducted at Police Station Uttam Nagar which is the address of the complainant/respondent No.1 and the Istridhan is required to be returned or accounted for by the accused within the jurisdiction of the Police Station Uttam Nagar.

6. Learned counsel for the petitioner has relied upon the decision reported as ***Satish Kohli and Anr. vs. State of U.P. and Ors.*** (2014) SCC Online All 16370 wherein, in a complaint case, the petitioners were summoned for committing offences punishable under Section 420/406 IPC. The summoning order was questioned by the petitioners before Allahabad High Court invoking the powers under Section 482 Cr.P.C. The High Court of Allahabad, while quashing the summoning order on account of lack of territorial jurisdiction gave liberty to the complainant to present the complaint before the Court having jurisdiction to entertain the same.

7. The petitioner cannot seek quashing of FIR by placing reliance on
W.P.(CRL) 3613/2016

Rupali vs. State of U.P. (Supra) in view of the legal position summarised by Hon'ble Supreme Court in ***Sunita Kumari Kashyap vs. State of Bihar and Anr.*** (2011) 3 SCC (Crl.)173.

8. In ***Sunita Kumari's*** case (supra) the issue that came up for consideration was whether criminal proceedings initiated by the Appellant at Gaya against her husband and his relatives are maintainable or not for lack of jurisdiction. The Apex Court after referring to the decision of ***Sujata Mukherjee (Smt.) vs. Prashant Kumar Mukherjee*** (1997) 5 SCC 30, ***State of M.P. vs. Suresh Kaushal and Anr.*** (2003) 11 SCC 126, ***Y. Abraham Ajith and Ors. vs. Inspector of Police, Chennai and Anr.*** (2004) 8 SCC 100 & ***Bhura Ram and Ors. vs. State of Rajasthan and Anr.*** (2008) 11 SCC 103, held as under:

“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.

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. “

9. In the instant case FIR has been registered at PS Uttam Nagar. In case the investigating agency arrives at the conclusion that it has no territorial jurisdiction, then the investigation can be transferred to the concerned police station having jurisdiction over the matter. But FIR cannot be quashed on the plea that the police station where the FIR has been registered has no territorial jurisdiction.

10. For the foregoing reasons, the prayer of the petitioner for quashing of FIR on the ground of lack of territorial jurisdiction is declined.

11. The petition is dismissed.

CrI.M.A. No.19699/2016

Dismissed as infructuous.

PRATIBHA RANI, J.

OCTOBER 31, 2017

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