

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-12402-2016

Date of decision: 25.05.2018

Saroj Bala and another

...Petitioners

Versus

State of Punjab and another

...Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Munish Behl, Advocate, for
Mr. Deepak Sharma, Advocate,
for the petitioners.

Mr. A.S. Sandhu, Addl. Advocate General, Punjab.

Mr. Amit Choudhary, Advocate,
for respondent No.2.

JAISHREE THAKUR, J.

1. This is a petition that has been filed under Section 482 Cr.P.C. seeking quashing of FIR No. 49 dated 16.06.2015 under Sections 406, 498-A, 120-B IPC read with Section 3 and 4 of Dowry Act 1961 registered at Women Police Station, Patiala (Annexure P-1) as well as report under Section 173 Cr.P.C under Sections 406, 498-A, 120-B IPC (Annexure P-9).

2. In brief, the facts are that Ajay Sharma son of petitioner No.1 and brother of petitioner No. 2 herein, solemnized a marriage with complainant-respondent No.2 Sapna Sharma on 18.05.2013 as per Hindu rites and ceremonies at Silver Oak Resort Village Jamitgarh, Police Station

Ghanaur, District Patiala, while being informed that Ajay Sharma son of petitioner No.1 was settled permanently in Australia. Ajay Sharma left for Australia within 13 days of the marriage leaving the complainant in her matrimonial home along with the petitioners herein, who started maltreating her by taunting her that her parents had not given enough Istrithan. After two months of the marriage, she went to Australia on the basis of an Education Visa but was not treated well there. A demand of Rupees Eight Lakh was made from her parents to deposit her six months fees. After a period of six months on 31.01.2014, she came back from Australia to her in-laws house to attend her brother's marriage and thereafter left for Australia. It was stated that she was maltreated by her husband who was not a permanent resident of Australia as informed to her and there was also a demand of more money from her parents. She came back to India but was not allowed to enter into her in-laws. Due to the various circumstances as narrated above, she was not allowed to inter into her matrimonial home where her Istridhan was lying. FIR was registered at District Patiala. The petitioners herein have instituted the present case seeking quashing of the FIR on the ground that the courts at Patiala do not have the jurisdiction to entertain the matter.

3. Learned counsel appearing on behalf of the petitioners herein submits that the said FIR is not sustainable at Patiala and the same has been filed only to harass the petitioners. It is argued that the permanent address of the complainant-respondent No.2 is of Ambala City in District Ambala as would be reflected in the FIR itself where the address is shown as House

No. 25, Ranjit Nagar, Ambala, Haryana. Her address in the passport is reflected as 1818/11, Moti Nagar, Ambala City while in a complaint filed under Section 12 read with Sections 17 to 22 of the Protection of Women from Domestic Violence Act, 2005 her address also shown to be at H. No. 1818/11, Moti Nagar, Ambala City. This Complaint case under the DV Act was filed on 19.11.2014 and the petition under Section 13 of the Hindu Marriage Act for dissolution was also filed at Ambala. It is argued that having invoked the jurisdiction of Ambala in all other matters, the FIR registered at the Police Station in Patiala is not sustainable being without jurisdiction.

4. Per contra, learned counsel appearing on behalf of respondent No.2 argues that the FIR has been rightly registered at Patiala as the complainant-respondent No.2 is currently residing therein as would be reflected from the domicile certificate issued, which is annexed as Annexure R-2/3, showing her to be resident of Silver OaK Resort Village Jamitgarh Post Office Loh Simbli, Jamitgarh, Tehsil Rajpura, District Patiala. It is argued that as per the Punjab Residential Certificate, it has been certified that 'Sapna Sharma' has settled in Punjab for a period of five years from 01.08.2012 to 16.08.2016 and is working as Student.

5. I have heard learned counsel for the parties and have perused the case file.

6. The sole question that needs to be decided “*Whether the FIR can be quashed on the ground that the Courts at Patiala do not have the territorial jurisdiction to entertain the said FIR?*” Quashing of the FIR is

prayed on the ground that the Police Station at Patiala would have not the territorial jurisdiction either to register the case or investigate the same and thereafter put up a challan before the Courts at Patiala.

7. Learned counsel appearing on behalf of the petitioners herein, who are mother and brother of Ajay Sharma (who is now divorced husband of the complainant), argues that the complainant resided with them for a very short period of time at Ambala. It is submitted that as per the provisions of Sections 177 and 181 Cr.P.C., the FIR could not have been registered at Patiala. Section 177 stipulates the place of inquiry and trial pertaining to an offence committed, and jurisdiction is established within whose local jurisdiction it was committed. As per Section 181 Cr.P.C. cases pertaining to 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. It is argued that, it is the Police Station at Ambala that would have the jurisdiction to register the case and investigate the same. In this regard, learned counsel for the petitioners places reliance upon *Y. Abraham Ajith and others vs. Inspector of Police, Chennai and another, 2004(3) R.C.R. (Criminal) 988* to substantiate that no cause of action has arisen in Patiala and if there is any demand of dowry or harassment therein it would be at Ambala and, therefore, any FIR or proceedings at Patiala are not sustainable.

8. Per contra, learned counsel appearing on behalf of the

complainant would rely upon the judgment rendered by the Hon'ble Supreme Court in ***Sunita Kumari Kashyap vs. State of Bihar and another, 2011(3) R.C.R. (Criminal) 26***, wherein it has been held that when an offence is continuing one and if it continues to be committed in more than one local area as per Section 177, the Court having jurisdiction over any of such local areas is competent to inquire into and try the offence. Similarly, reliance has also been placed upon the judgment rendered by the Hon'ble Supreme Court in ***Satvinder Kaur vs. State (Govtr. of NCT of Delhi) (1999) 8 SCC 728*** and the judgment rendered by this Court on **04.11.2008 in Criminal Misc.M No. 26744 of 2007** titled ***Mrs. Sushmita Majumdar Samal & another vs. State of Haryana & another.***

9. In the instant case, the FIR was registered in the Police Station at Patiala showing her current address to be that of Village Jamitgarh, Police Station Ghanaur, District Patiala, Punjab. It is also undisputed that the marriage was performed at Silver Oak Resort Village Jamitgarh, Police Station Ghanaur, District Patiala on 18.05.2013 and the instant FIR came to be registered on 16.06.2015 at Police Station, Patiala showing the place of occurrence at H. No. 25, Ranjit Nagar, Ambala. The translated version of the FIR is reproduced herein as under :

“FIRST INFORMATION REPORT

(Under Section 154 Cr.P.C.)

***1. District : Patiala P.S. : Woman Year: 2015 FIR No. 49 Date:
16.6.2015***

2. Act(s): Section(s):

(i) IPC 1869 406/498/120B

(ii) Dowry Act 3 / 4

(iii)

(iv)

3. Occurrence of offence:

(a) Day : Saturday Date from : 18.5.2013 Date to:

Time Period: Time From: Time to:

(b) Information received at P.S.: Date : 16.6.2015

Time : 8:15 AM

(c) General Diary reference entry No. 05 Time : 8:15 AM

(4) Type of information : WRITTEN

5. Place of occurrence : **House No. 25, Ranjit Nagar, Ambala**
(Haryana)

(a) Direction and distance from P.S.: Beat No.

(b) Address : House No. 25, Ranjit Nagar, Ambala (Haryana)

(c) In case, outside the limit of the Police Station :

Name of P.S.: District:

6. Complainant/informant:-

(a) Name : Sapna Sharma (d/o) Yashpal Sharma

(b) Birth Year : About 26 years Nationality : India

(c) Passport No.: Date of Issue: Place of issue :

(d) Occupation: Housewife

(e) Address : House No. 1818, Moti Nagar Ambala City,
(Haryana) now resident of Village Jamitgarh, Police
Stationi Ghanaur, District Patiala, Punjab.

7. Details of known/suspect/unknown accused with full
particulars (attach separate, if necessary) :(2)

(i) Ajay Sharma (s/o) Joginder Sharma

(ii) Saroj Bala wife of Sh. Joginder Pal Sharma

(iii) Parveen Sharma son of Sh. Joginder Pal Sharma residents
of House No. 25, Ranjit Nagar, Ambala (Haryana)

8. Reasons for delay in reporting by the complainant/informant

NO DELAY

9. *Particulars of the properties stolen/ involved (attach separate sheet, if necessary):*

*SI. No. Property Type Est. Value Status
(Description) (Rs.)*

(i)

(ii)

(iii)

10. *Total value of properties stolen.*

11. *Inquest report/UD case No., if any:*

12. *FIR contends (attach separate sheet, if required):*

Today one complaint No. 78/case dated 11.6.2015 from Sapna Sharma D/o Shri Yashpal Sahrma r/o House No. 1818, Moti Nagar, Ambala City, Haryana to SSP Sahib Patiala has been received through post for investigation against accused persons which is as under : to SHO Sahib, Police Station Ghanaur, dated 30.3.2015 from Sapna Sharma d/o Shri Yashpal Sharma caste Brahmin r/o House No. 1818, Moti Nagar, Ambala City, Haryana against 1. Ajay Sharma s/o Shri Joginder Pal caste Brahmin r/o House No. 25, Ranjit Nagar, Ambala City 2. Joginder Pal (father-in-law) 3. Saroj Bala wife of Joginder Pal Sharma 4. Parveen Sharma s/o Joginder Pal Sharma r/o above stated address. Subject:- Maltreatment from in-laws family and giving false information regarding permanent settlement of husband abroad. Sir, it is submitted that I Sapna Sharma d/o Sh. Yashpal Sharma caste Brahmin, am, r/o House No. 1818, Moti Nagar, Ambala City, Haryana and have done JBT. That my marriage was solemnized with Ajay Sharma s/o Joginder Pal Sharma caste Brahmin r/o House No. 25, Ranjit Nagar, Ambala City on 18.5.2013 as per Hindu rites and ceremonies at Silver Oak Resort Village

Jamitgarh, Police Station Ghanaur, District Patiala. My parents have given Istridhan as per their status. My in-laws had told at the time of marriage about the permanent settlement of my husband at Australia and my husband, Ajay Kumar Sharma went to Australia after 13 days of our marriage and I lived at my in-laws house and my above stated in-laws family started maltreating me by taunting me that your parents have not given enough Istridhan. They said that our son was getting many marriage proposals as he is a permanent resident of Australia. When I used to ask them to let me talk to my husband, they used to threaten me. But after two months, they sent me to Australia on the basis of education. And they said that you first stay with my sister-in-law, Archana Sharma for few days and then Ajay will take you with him. I got to know about their reality after reaching there that Ajay Sharma was not a permanent resident of Australia. Rather they destroyed my life by playing fraud with us. After that my in-laws family started demand Rs. 8 Lakh from my parents to deposit my six months fee. That after six months on 31.1.2014 I came back from Australia to my in-laws house to attend my brother Kuldip Sharma's marriage and after attending my brother's marriage I came back to my husband at Australia. They maltreated me as my husband was not permanent resident of Australia and also demanded more money from my parents. I came back to India when I got no alternative and my in-laws did not allow me to enter into my in-laws house. My husband Ajay Sahrma has now returned back to India and is hiding somewhere. Due to this my in-laws family is not telling us anything and they are also not allowing

me to enter into my house and all of my Istridhan is lying at in-laws house. They started threatening me when I asked t hem for my Istridhan. Legal action should be taken against them. Sd/- Sapna Sharma”

10. Section 177 stipulates that every case should be inquired and tried by the Court within whose local jurisdiction it was committed. A reading of the FIR would reflect that the complainant resided with her in-laws at Ambala, wherein it is alleged that she was maltreated for not having brought enough Istridhan. She was sent to Australia on the basis of an Education Visa and she resided in Australia with her husband. A demand was raised for ₹ 8,00,000/- her parents in order to deposit her six month fees. Thereafter, she came back from Australia on 31.01.2014 to the house of here in-laws to attend the marriage of her brother and thereafter left back to Australia with her husband. While residing with her husband in Australia, she was maltreated and she returned back to India and was thereafter not allowed to enter into the house of her in-laws at Ambala.

11. In the judgment referred to as ***Y. Abraham Ajith and others*** case (supra), it has been held as under :-

“10. While in civil cases, normally the expression "cause of action" is used, in criminal cases as stated in [Section 177](#) of the Code, reference is to the local jurisdiction where the offence is committed. These variations in etymological expression do not really make the position different. The expression "cause of action" is therefore not a stranger to criminal cases.

11. It is settled law that cause of action consists of bundle of facts, which give cause to enforce the legal

inquiry for redress in a court of law. In other words, it is a bundle of facts, which taken with the law applicable to them, gives the allegedly affected party a right to claim relief against the opponent. It must include some act done by the latter since in the absence of such an act no cause of action would possibly accrue or would arise.”

12. In the case of **Y. Abraham Ajith and others** case (supra) the facts are similar. The complainant therein filed proceedings alleging harassment on account of dowry. Thereafter, she left and came to live at Chennai. In the complaint, there was no allegation about the demand of dowry at Chennai which led the Supreme Court to arrive at the conclusion that no cause of action arose at Chennai and it proceeded to quash the complaint.

13. The instant FIR does not reveal any such incident taking place at Patiala. In fact, as per the allegations there was a demand of ₹ 8,00,000/- from her in-laws to pay for her tuition fee after she had been sent to Australia and thereafter there too another demand was raised. There is no allegation that the demand was raised by the husband or the in-laws in her home at Patiala. Therefore, the demand, if any, was made at Ambala and at Australia.

14. The case law as relied upon by the respondent is not applicable to the facts herein. In **Sunita Kumari Kashyap** case (supra), judgment relied upon by counsel for the respondent, the Supreme Court while taking note of the judgment rendered in **Y. Abraham Ajith and others** case (supra) declined to interfere in the said matter on account of specific allegations

made in the complaint stating that the complainant had been maltreated and treated cruelly at the hands of husband and relatives at Ranchi. It was because of cruelty meted out and on account of insufficient dowry, she was taken to her parental home at Gaya by her husband with dire consequence for not fulfilling demand of dowry. It was held that both Courts at Ranchi and Gaya would be competent to entertain the proceedings since there was also a demand of dowry at Gaya. Unlike in the case of **Sunita Kumari Kashyap**, there is no allegation that a demand was made from the respondent at Patiala when she was residing there. Judicial note is also taken of the fact that proceedings under the D.V. Act were initiated in the year 2014, immediately after the return of the complainant from Australia at Ambala. The divorce petition which could have been instituted at Patiala, since the marriage was solemnized there and the respondent had established a domicile, too has been filed at Ambala. Even in the FIR itself the place of occurrence has been shown to be at **House No. 25, Ranjit Nagar, Ambala (Haryana)** the residential address of the petitioners. Therefore, since there is no cause of action or an offence having been committed at Patiala, no jurisdiction can be conferred there.

15. Therefore, in the facts and circumstances of the case in hand and on the basis of the specific averment in the FIR, it is held that the proceedings at Patiala are not maintainable on account of lack of jurisdiction. However, without commenting on the merits of the case, the proceedings are transferred to a Court of competent jurisdiction at Ambala. Let the case file and other record be transferred immediately. Parties to

appear before the Session Judge, Ambala on 12.7.2018. The Session Judge, Ambala to assign the case accordingly.

Petition stands allowed on the aforesaid terms.

25.05.2018

Satyawan

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes.
No.