

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-29258-2019 (O&M)
Date of Decision : 16.07.2019

Anil Gupta Petitioner
Versus

State of Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present : Mr. Suman Jain, Advocate
for the petitioner.

RAJ SHEKHAR ATTRI, J. (Oral)

The petitioner has preferred the instant petition under Section 482 Cr.P.C. for quashing the complaint bearing No.CIS-COMI-70/2017 dated 17.05.2017, filed under Sections 313, 406, 498-A, 506 IPC titled as 'Shalini Gupta vs. Anil Gupta and others'; summoning order dated 06.01.2018 and dismissal order dated 04.06.2019, passed in revision petition.

It is undisputed fact that the petitioner was married with respondent No.2 Smt. Shalini Gupta on 24.09.2013 at Chandigarh. This was the second marriage of both the parties.

Respondent No.2 has submitted a complaint (Annexure P-6) to the police for registration of criminal case against the petitioner and his relatives. She has given the details of the istridhan articles given and demanded by them. She has also submitted her address that of Ambala City in the said complaint and the same was submitted to the Deputy

Commissioner of Police (Urban) Ambala. After conducting the preliminary investigation, Incharge, Crimes against women Cell, Urban Ambala has opined that the allegations levelled against the petitioners are found to be false.

Thereafter, Smt. Shalini Gupta filed a complaint (Annexure P-9) before the Chief Judicial Magistrate, Fatehgarh Sahib alleging that now she has been residing at Village Niamu Majra in the house of her father's friend.

I have heard learned counsel for the parties and have gone through the record.

Learned counsel for the petitioner has vehemently contended that neither the marriage was solemnized at this place nor any cause of action has been accrued at Fatehgarh Sahib, rather, the complaint has been filed to harass the petitioners at a far away place and as such, the trial Magistrate has no jurisdiction.

I have considered this contention but it carries no weight.

A bare perusal of para Nos.10 and 11 of the complaint, it is abundantly clear that at the time of filing said complaint, complainant Smt. Shalini Gupta had been staying at Niamu Majra under the jurisdiction of District Police Fatehgarh Sahib and also under the territorial jurisdiction of the trial court.

The complainant had made allegations with regard to demand of dowry and also non-return of istridhan articles. After conducting the investigation, the learned Magistrate has summoned the petitioners vide order dated 06.01.2018 to face trial for the offences under Sections 313, 406, 498-A, 506 IPC.

The petitioner preferred criminal revision No.08 dated 19.02.2018 before the revision court at Fatehgarh Sahib which was dismissed vide order dated 04.06.2019, passed by the learned Addl. Sessions Judge, Fatehgarh Sahib.

Though in the complaint, respondent No.2 has not only raised allegations with regard to demand of dowry but also sought return of dowry articles.

It is the duty of the husband and other persons, who have been entrusted with dowry articles to return the same where the wife is staying temporarily or permanently.

It is specifically averred in para No. 11 (ibid) of the complaint that now she is residing and settled at Village Niamu Majra, District Fatehgarh Sahib. In a recent judgment **Rupali Devi v. State of Uttar Pradesh and others**; Criminal Appeal No.71 of 2012 decided on 9.4.2019, Hon'ble Supreme Court has categorically stated that the place where the wife takes shelter after leaving or driven away from the matrimonial home on account of acts of cruelty committed by the husband or his relatives, have jurisdiction to entertain a complaint. In this view of the matter, the courts at Fatehgarh Sahib had territorial jurisdiction to try the complaint.

Hon'ble Supreme Court in **State of Haryana and others v. Ch.Bhajan Lal and Ors.**, 1992 AIR (SC) 604 has pleased to lay down the parameters with regard to quashing of the proceedings pending before the police or before the court of law. The following observations have been made in the concluding paragraph:-

“In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the

principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

- 1. Whether the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*
- 2. Where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155 (2) of the Code.*
- 3. Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.*
- 4. Whether, the allegations in the F.I.R. do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155 (2)*

of the Code.

5. *Where the allegations made in the F.I.R. or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.*
6. *Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.*
7. *Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”*

Under the Code of Criminal Procedure, distinct venues for the trial of criminal case. A special procedure has been provided for the trial in respect of the offence of breach of trust under the provisions of section 181 (4) thereof-which provision reads as follows:-

“Section 181 (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.”

A bare perusal of the above quoted provisions makes it clear that the offence of criminal misappropriation or breach of trust may be

enquired into or tried by the Court, within whose jurisdiction, any of the following five facts took place namely,

- (i) Any part of the property forming the subject matter of the offence was received by the accused or
- (ii) was retained by him; or
- (iii) was required to be returned by him; or
- (iv) was required to be accounted for by him; or
- (v) he offence was committed.

Therefore, finding no ground to quash the complaint, summoning order dated 06.01.2018 and dismissal order dated 04.06.2019 passed in the revision petition, the instant petition stands dismissed.

16.07.2019
mamta

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No