

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

**CRM-M-7236-2018 (O&M)
Date of Decision: 15.5.2019**

Yogesh Prabhakar and another

.....PETITIONER(s).

VERSUS

Monika Prabhakar

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Yogesh Prabhakar in person.

RAJ SHEKHAR ATTRI, J.

The present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of complaint (Annexure P-1) bearing Criminal Case No.224 dated 13.9.2017/21.9.2013 filed under Sections 498-A, 406 of Indian Penal Code and summoning order dated 9.7.2019 (Annexure P-2) along with all subsequent proceedings arising out of the same.

A complaint was filed by the wife of the petitioner Smt. Monika Prabhakar before learned Judicial Magistrate, 1st Class, Ambala asserting that she has been residing at Ambala. It is undisputed fact that the marriage between the parties was solemnized at Parwanoo, Himachal Pradesh. Thereafter, the parties started residing together at Delhi. It has been alleged that the petitioner had demanded dowry articles at different places. Even when the parties were staying at Delhi, demand of dowry was made by the petitioner and his family members. It is specifically

stated in para 17 of the complaint that the complainant-respondent is residing with her parents at Ambala and some dowry articles were also entrusted at Ambala and those were demanded back from the accused at Ambala, therefore, the court of learned Magistrate at Ambala has jurisdiction.

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

It has been vehemently contended that the trial court has no territorial jurisdiction to try the case. But this Court is not agreeing with this argument.

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) the offence was committed.

It is specifically averred in para 17 (ibid) of the complaint that the dowry articles were entrusted and demanded at Ambala and, therefore, the Court at Ambala had jurisdiction. 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 Ambala had territorial jurisdiction to try the complaint.

It has been further argued that it is a case of double jeopardy.

This Court has gone through the entire record but no case is made for double jeopardy.

It has been further argued that a bare perusal of Ex.DX transpires that the complainant-respondent has committed forgery but no case is made out to establish forgery by the respondent-complainant.

Apart from it, the 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.”

Having regard to the discussion made above, it is held that no case is made out for interference by this Court.

Dismissed.

However, nothing expressed above shall affect the merits of the case.

May 15, 2019
Paritosh Kumar

(RAJ SHEKHAR ATTRI)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>