



\$-

NEUTRAL CITATION NO: 2022/DHC/003341

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

BEFORE

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

+

CRIMINAL MISCELLANEOUS CASE NO. 3808 of 2011

Between:-

**NAVDEEP SONI S/O LATE SHRI S. P.
SINGH, R/O M-7/12, GROUND FLOOR, DLF
PHASE-II, GURGAON, HARAYANA**

.....PETITIONER

(By Shri Aman Mehta, Advocate)

AND

1. STATE (NCT OF DELHI)

..... RESPONDENT NO. 1

*(By Shri Utkarsh, Additional Public Prosecutor for the State
with Sub-Inspector Jitendra, Police Station:Mehrauli).*

**2. MS. ANITA SONI @ NEERU W/O SHRI NAVDEEP SONI
D/O SH.KARAM CHAND SONI, R/O 32, GADAIPUR,
MEHRAULI,NEW DELHI.**

..... RESPONDENT NO. 2

(By Shri Mir Akhtar Hussain, Advocate)

%

Pronounced on : 30.08.2022

JUDGMENT

NEUTRAL CITATION NO: 2022/DHC/003341



1. This petition under Section 482 of Cr.P.C. has been filed for quashment of FIR No. 332/2008 for offences punishable under Section 498A/406/34 of the IPC, registered at Police Station Mehrauli and order dated 21.01.2011, passed by Metropolitan Magistrate, South, Delhi, taking cognizance against petitioner. It is relevant to state at the outset that so far as the other accused persons are concerned, the order of summoning has already been quashed by this court in CRL.M.C.2992/11 by order dated 22.09.2011.

2. Brief facts of the case are that on 02.06.2007, the marriage of the petitioner was solemnized with respondent No.2 at Gurdwara Phase-III, Gurgaon, Haryana, according to Hindu rites and customs of Sikh Religion (Anand Karaj). Admittedly, it was second marriage of both the parties. On 31.03.2008, respondent No.2 filed a complaint in CAW Cell against the petitioner and his family members. On 04.07.2008, police registered the FIR in question on the basis of the recommendation of CAW Cell. After completion of the investigation, the police filed the chargesheet on 01.05.2010 against the petitioner and placed the names of other accused in column No.12, as no evidence was found against them. On 21.01.2011, the concerned court has taken cognizance against all accused persons including those whose names were placed in column No.12. The other accused filed CRL.M.C. 2992/2011, titled as “*Rani Soni @ Joginder Kaur Soni & Ors vs. State*”, which was allowed by this court on 22.09.2011 while quashing the order of summon issued against them.

3. Learned counsel appearing on behalf of the petitioner submits that since the parties were married in Gurgaon and stayed at the matrimonial home in Gurgaon and therefore, the court at Delhi has no jurisdiction to take cognizance of the matter. According to him, the



allegation made in the FIR that the complainant started living at

NEUTRAL CITATION NO: 2022/DHC/003341

house in Gadaipur, Mehrauli, New Delhi, is absolutely incorrect and the same has been made with a view to create jurisdiction of Delhi Court. However, during the investigation, the police itself found that the complainant never resided at Gadaipur, Mehrauli. He further submitted that the offence under Section 498-A/406 of the IPC is not a continuous offence. After the complainant left the matrimonial home, there was no further demand raised by the petitioner and therefore, the concerned FIR and all the proceedings emanating therefrom are without jurisdiction. He places reliance on various decisions of the Hon'ble Supreme Court and different High Courts, reported in the matters of *Y. Abraham Ajith & Ors vs. Inspector Of Police, Chennai & Anr*¹, *Manish Ratan & Ors, vs State of M.P. & Anr.*², *Dr. (Mrs.) Sarojini Arawattigi & Anr vs. State of U.P. & Ors.*³, *Radhe Raman Naik & Anr. vs State of Jharkhand*⁴, *T.P. Nandkumar vs State of Kerala & Anr.*⁵, *Amarender Jyoti & Ors. vs. State of Chhattisgarh & Ors.*⁶, *Bhudeb Chandra Karmakar & Anr. vs. State of West Bengal*⁷, and *Bimla Rawal & Ors vs. State of Delhi.*⁸

4. Learned counsel also submits that all the allegations levelled in the FIR are vague and not specific and therefore, if the material available on record is examined carefully, the same would reveal that they are false and frivolous. He further submits that the FIR in question has been filed with oblique motive and vexatious intention. Since the allegations are improbable and there is no sufficient ground

¹ (2004) 8 SCC 100

² (2007) 1 SCC 262

³ (2007) SCC OnLine All 1253

⁴ (2007) SCC OnLine Jhar182

⁵ (2007) SCC OnLine Ker 101

⁶ (2014) 6 SCC (Cri) 719

⁷ (2001) 9 SCC 226

⁸ 2008 (1) LRC 391 (Delhi)



to proceed against the petitioner as the criminal proceedings manifestly attended with *malafide* reason, the same should be quashed by this court in the exercise of power under Section 482 of the Cr.P.C. For the aforesaid proposition, learned counsel places reliance on a decision of the Hon'ble Supreme Court in the matter of ***State of Harayana Vs. Bhajan Lal***⁹.

5. On 21.11.2011, this court directed for issuance of notice to the respondent. On 30.11.2011, respondent No.2 was represented through a counsel and direction for the personal appearance of respondent No.2 were issued. On 19.01.2012, when respondent No.2 did not appear, this court directed the Investigating Officer to ensure that respondent No.2 appears in court. On 22.02.2012, the matter was referred for mediation and conciliation at the Delhi High Court Mediation and Conciliation Center. The mediation remained unsuccessful and on various dates, respondent No.2 sought time. From 2016 to 2018 for 8 hearings, neither respondent No.2 appeared nor her counsel, therefore, on 28.02.2019, this court directed for issuance of a bailable warrant against her. On 01.08.2019, again respondent No.2 sought time. Despite that, no one appeared on behalf of respondent No.2 and this court on 21.07.2022, decided to proceed ex-parte against respondent No.2.

6. Respondent No.2 however, had filed brief synopsis on 16.02.2013, through her counsel. She has stated that the petitioner and respondent No.2 were divorcees and having considered the overall background of the petitioner, she decided to re-marry and accordingly, on 02.06.2007, they got re-married in a Gurudwara. She stated that she spent around Rs.15 lakhs on gold and jewellery for herself. It is further stated by her that the petitioner was an alcoholic. The other

⁹ (1992) SCC (cri) 426



relatives of the petitioner, demanded dowry and on account of r

NEUTRAL CITATION NO: 2022/DHC/003341

fulfilment of the demand, she was thrown out of the matrimonial house and therefore, she prayed that this court should dismiss the petition with a heavy cost.

7. I have considered the submissions made by the learned counsel appearing on behalf of the petitioner and the written synopsis filed by respondent No.2. I have also heard learned APP for the State, who opposed the prayer and submitted that the petitioner has an alternative remedy to approach the revisional court against the order passed by the Metropolitan Magistrate for taking cognizance.

8. A perusal of the order dated 21.11.2011 would show that this court while issuing notice to the respondents, directed for the stay of further proceedings of the trial court and therefore, it is seen that for the last about 11 years there has not been any progress in the trial court. Under the aforesaid circumstances, this court finds it appropriate to decide the matter on merits.

9. On 12.02.2008, respondent No.2 made a complaint to the in-charge of CAW Cell, Amar Colony, Lajpat Nagar, New Delhi. In the said complaint, she stated that she was living at her brother's house in Gadaipur, Mehrauli, New Delhi. She further stated that prior to her marriage, her brother-in-law, sister-in-law and the petitioner told her that their standard is quite high and therefore, they advised her to have sufficient gold and diamond jewellery. She, therefore, had to spend around Rs.15 lakhs. She also stated that on their advice, she had sold her car for a sum of Rs.89,300/- which was taken by her mother-in-law. She was also asked to pay Rs.75,000/- towards marriage expenses and when she refused to make the payment, she was threatened. She stated that her husband used to be admitted to a de-addiction centre in India and U.S.A. and while suppressing all these



facts, he got married to respondent No.2, projecting the wife's biodata. According to her, the marriage was a result of fraudulent intent. She narrated various instances in the said complaint and finally, she stated that on 01.08.2007, her brother-in-law, sister-in-law and mother-in-law demanded Rs.5 lakhs from her and when she refused, the same resulted in clashes and finally on the night of 08.08.2007, she was ousted from her matrimonial house and since then, she had been living with her brother at Mehrauli, New Delhi.

10. After lodging the aforesaid complaint, the police started inquiry and on 04.7.2008 the FIR was registered. It is stated that after respondent No.2 was ousted from her matrimonial house, she started living at Mehrauli, New Delhi and later on the petitioner came to Mehrauli and started taking treatment and during the said period, brother-in-law, sister-in-law and mother-in-law also came there and demanded Rs.5 lakhs. When respondent No.2 allegedly refused to pay the money, they quarrelled and abused respondent No.2. It is also stated in the FIR that the complainant was ousted from her matrimonial house. It is therefore seen that the averments in the FIR regarding the incident at Mehrauli, New Delhi was not at all mentioned in the complaint made to CAW Cell.

11. In the final report, it has been recorded that when Investigating Officer visited the given address at Mehrauli, he found that respondent No.2 was not residing there. It is also stated that there was evidence against the petitioner and no evidence was found against the other accused therefore, the names of the other accused were placed in column 12.

12. Section 177 & 178 of the Code of Criminal Procedure (Cr.P.C.), 1973, under Chapter 13 of the Code deals with the jurisdiction of the criminal courts in inquiries and trials.

Section 177 of the Code is reproduced hereunder:

NEUTRAL CITATION NO: 2022/DHC/003341



“Every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed.”

Section 178 of the Code is reproduced hereunder:

“(a) When it is uncertain in which of several local areas an offence was committed, or (b) where an offence is committed, partly in one local area and partly in another; or (c) where an offence, is a continuing one, and continues to be committed in more local areas than one, or (d) where it consists of several acts done in different local areas, it may be inquired into or tried by a Court having jurisdiction over any of such local areas.”

13. In Section 177 of the Cr.P.C., word ‘Ordinarily’ is used which would indicate that the provision is a general one and must be read subject to the special provisions contained in the Code. It is, thus, to be considered as to whether any part of the cause of action arose within the jurisdiction of Delhi Court in terms of Section 177 of the Code. If the complaint made by respondent No.2 at the first instance to CAW Cell is carefully perused, the same would reveal that respondent No.2 was allegedly ousted from her matrimonial house at Gurgaon on 08.08.2007. After filing of the main complaint to CAW Cell, there is neither any further complaint made by her nor any statement given to the police that there has been any demand of dowry, within the local limits of the court at Delhi. No material has been brought on record as to on what basis FIR states that the husband of the respondent came to her in Delhi for treatment and thereafter quarrel had taken place. Even the aforesaid narration in the FIR has been found to be incorrect during the investigation by the police itself and, therefore, in the final report, it is stated that

respondent No.2 was not found to have resided at the address gi

NEUTRAL CITATION NO: 2022/DHC/003341



The police did not find any material against the in-laws of respondent No.2 and therefore, their names were placed in column 12. Despite that when the cognizance was taken against other accused by the Metropolitan Magistrate and this court set aside the order of cognizance in CRL.M.C. 2992/2011 by order dated 22.09.2011. It is thus seen that no cause of action has arisen within the local limits of the Court at Delhi. The narration in FIR itself has been found to be unsubstantiated in the investigation conducted by the police and hence, the court at Delhi has no jurisdiction to take cognizance against the petitioner.

14. In view of the aforesaid, the impugned order dated 21.01.2011, passed by Metropolitan Magistrate in FIR No.332/2008 is hereby quashed and all proceedings emanating therefrom are also quashed.

15. Accordingly, the petition stands allowed.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

AUGUST 30, 2022
'MJ'

सत्यमेव जयते