

CRM-M-8192-2024

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

CRM-M-8192-2024 (O&M)
Date of order: 29.02.2024

Ashok Dahra & another

Versus

Union Territory, Chandigarh & others

... Petitioner(s)

...Respondent (s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Vikram Chaudhri, Sr. Advocate with
 Mr. Digvijay Singh, Advocate and
 Mr. Rishab Tiwari, Advocate
 for the petitioner(s).
 Mr. Manish Bansal, PP, UT, Chandigarh with
 Ms. Diksha Sharma, Advocate for respondents no.1 and 2.
 Mr. Brijesh, AAG, Punjab for respondents No.3 to 5.

MANISHA BATRA, J.

FIR No.	Dated	Police Station	Sections
432	29.11.2023	Jila Peth, District Jalgaon, Maharashtra	34, 420, 465, 468, 471, 506 of Indian Penal Code, 1860 (for short ‘IPC’)

The abovesaid FIR has been filed by the petitioners seeking quashing, which was registered on the information supplied by respondent no. 9, who was sister-in-law (*bhabhi*) of the petitioners being married to their younger brother, has come up before this Court by filing the present petition under Articles 226/227 of the Constitution of India as well as Section 482 of the Code of Criminal Procedure, 1973.

2. Vide order dated 8.2.2024 passed by a coordinate Bench of this Court, the petition was treated primarily under Section 482 CrPC and

accordingly, the same was ordered to be listed as per roster.

3. I have heard counsel for the parties for sufficient time and gone through the petition.

4. Mr. Manish Bansal, learned Public Prosecutor, UT, Chandigarh, has raised the foundational objection qua the jurisdiction of this Court to entertain this petition. Given the fundamental objection raised by Mr. Manish Bansal, learned Public Prosecutor, UT, Chandigarh, regarding the lack of jurisdiction of this Court to quash an FIR registered in Maharashtra, the need for response would come only when this Court *prima facie* finds substance in the pleadings and the prayers made in the petition. It would be appropriate to extract the relevant part of the FIR (Annexure P-5), which reads as follows:-

“I, Sharvari Deepak Dahra Age 38 years, Occ. Health Consultant, residing at Plot No. 23, Shahu Nagar, Ring Road, Jalgaon (Paternal House) House No. 2586, Near Satyanarayan Temple, Gurudwara Singh Sabha Road, Rajpura City, District Patiyala, State Punjab, Mob. No. 9154600000.

Being personally asked I hereby state that I am as mentioned above and I am residing since last 2 months along with my daughter viz. Samradnyani, Age 8 years. Also my brother viz. Yashvardhan Mali was working at Pune and residing along with my mother viz. Smita Mali. Also, my mother used to come at my residential house from time to time and also my father's sister (Aunt) viz. Shubhangi Mali was residing near to my house and she is working as a Consultant along with me and thereupon my family earns bread and butter.

When I was studying MBBS in the year 2006 at Government

Hospital, Chandigarh at that time I came to know Deepak Dahra and we have married on 25.06.2007 as per Hindu Rites and Rituals at Panchkula, Sector 4, Falicite Inter-caste Marriage Association and also done Court Marriage at Chandigarh. Thereafter, I, my husband and his four brothers and his families are residing at Rajpura City, Dist, Patiala, State Punjab. Thereafter on 23.12.2019, my husband was expired due to accident. I and my daughter are dependent on my husband and hence I and my daughter were staying along with my in laws at Rajpura. Thereafter, I am not getting money for me and also for my daughter for purchasing clothes whenever I demand. At that time, I have requested my in laws for payment of 6th share of my husband from family income and income from business. At that time the brothers of my husband and their wives had mentally and physically tortured me due to tiny reasons and hence I started staying at Chandigarh on rental basis.

In the month of Sept. 2021, my elder brother in law Sushil Ramchandra Dahra came in my rental house at Chandigarh and sexually harassed me. In this connection I have informed the same to my parents my mother Smita, Aunty Shubhangi, Brother Yashvardan came at Chandigarh to meet me. At that time when I have told all incidence to them then, I went along with my parents at Rajpura and conducted a meeting with my in laws and my mother Aunty and Brother have asked regarding this act committed by Sushil Dahra. At that time there was a quarrel amongst us. I was staying at Chandigarh on rental house and I don't have income source and hence I have requested them for 6th share of my husband. Thereafter the discussions are carried out there and my alder brother in laws Ashok Ramchandra Dahra and Sushil Ramchandra Dahra told me that we will purchase a home of Rs.2 Crores at Chandigarh for you and your daughter and will pay 1/6th share from family income and business income. Upon this I and my parents are agreed for the same.

Thereafter in the first week of October, 2021, my brother in laws viz. Ashok Dahra and Sushil Dahra introduced their business

friend viz. Rahul Sudesh Gupta and his father Sudesh kumar Lal Chand Gupta residing at House No. 3247 Sector 26B Chandigarh and Rahul Gupta showed me House No. 113 at Sector 15, Chandigarh. I, my mother and my aunty and brother saw the said house and we like the same and hence I have given affirmative reply to him. Thereafter, my elder brother in laws viz. Ashok Duhra and Sushil Dahra called me at House No. 113 at Sector 16, Chandigarh then I, my mother, my Aunty and my brother reached there. At that time my elder brother in laws Ashok Dahra and Sushil Dahra and their friend Rahul Gupta and Sudesh Gupta were present. At that time, my alder brother in law Ashok Dahra gave me the key of the said house by paying an amount of Rs.40 lakhs in cash in front of my parents and told me to stay in the said house. Also informed me that they will purchase the same in my name from Rahul Gupta and Sudesh Gupta. Hence, I have started my business in the said house by constructing office of Health Consultancy.

The said house was not purchased after lapse of so many days and hence I informed my elder brother in laws Ashok Dahra and Sushil Dahra to get purchased the above mentioned house. At that time Ashok Dahra came in my residential house at House No. 409, Sector 35A Chandigarh and when myself my mother and Aunty were present in the house at that time he told me that, the huge amount of our family business is stuck in the transaction of Posh City at Mohali Punjab and hence there is a need of money and also told me to make arrangement of Rs 1 crore for purchasing the house. Thereafter he went away and the discussions were carried out amongst myself, my mother and my aunty and also talked with my brother on phone and myself, my daughter, my mother and aunty came at Jalgaon for making arrangement of money.

When I was making arrangement of money from my relative friend then my elder brother in law Ashok Dahra asked me regarding money through phone. At that time, I informed him that an amount of Rs. 60 lakhs is arranged from my relative friend and from my saving.

At that time he told me that they are coming at Jalgaon for obtaining money. Hence I told him affirmative reply and hence in the first week of November, 2021, my elder brother in laws Ashok Dahra and Sushil Dahra, Rahul Gupta and Sudesh Gupta came at Jalgaon in my house. I paid him an amount of Rs. 60 lakhs in cash which I have arranged. At that time my elder brother in law Ashok Dahra asked me that when I am coming. At that time I told him that after 15-20 days we will come. At that time Rahul Gupta had obtained my signature on the stamp papers which he had brought along with him and told me that he will get typed the sale agreement on this stamp paper in Punjabi language and will keep the same ready. Thereafter they went away. [emphasis supplied] In the first week of December, 2021, I went at Chandigarh. Thereafter I went to my office at Sector 15, House No. 113. At that time my neighbour told me that when I was not here at that time Rahul Gupta came in the office by opening the lock. Thereafter I phoned him then he told me that he came there for inspecting the house. Rahul Gupta is known to my in laws and hence I have not paid more attention towards him.

Thereafter, after some days I have received summons from the Hon'ble Court, Accordingly I have conducted the enquiry from the Hon'ble Court then I have received information that the rent agreement was executed in respect of Sector 15, House No. 113, between myself and Rahul Gupta on the stamp paper which I had duly subscribed my signature for the purpose of execution of the sale agreement. Thereafter I again called my parents and informed the said incident to them. At that time, my brother Yeshvardhan asked me that, as to whether you have handed over any documents to anyone else. At that time, I have checked office at Sector 15, House No. 113, Chandigarh and I have noticed that two cheques of my IDBI Bank, Plain Papers having signatures, some important documents and my passport size photos are missing.

I went at Rajpura Punjab at my in laws house along with my

parents and asked regarding above mentioned incident then they told me that the panchayati no objection was prepared in respect to purchase of house i.e. Sector 15 House No. 113, Chandigarh and also the house rent of House No. 409, Sector 35 A Chandigarh where I am staying on rental basis. Accordingly an amount of Rs. 4,40,000/- was paid as and by way of rent amount. But, till date no purchase of the said house i.e. Sector 15, House No. 113, Chandigarh and hence I frequently asked regarding this to them, then they have threatened me and my daughter of dire consequences and hence I started staying at my parents house at Jalgaon from Chandigarh,

Hence from October 2021 till date my elder brother in law Ashok Ramchandra Dahri, Sushil Ramchandra Dahra and business friend of these two viz. Rahul Sudesh Gupta and his father Sudesh Kumar Lalchand Gupta residing at House No. Sector 23 D, Chandigarh in connivance with each other and by taking me into their confidence obtained an amount of Rs. 60 lakhs from me in cash for purchasing the said house Sector 15, House No. 113 and Rahul Sudesh Gupta had obtained my signature on the stamp paper and when I was at Jalgaon at that time obtained blank cheques, and other valuable papers and my passport size photo from Sector 15, House No. 113 at Chandigarh in my absence and without obtaining my consent and with malafide intention and prepared bogus documents and cheated me by committing my breach of trust and also me and my daughter of dire consequences and hence my legal complaint against them.”

5. A perusal of the FIR indicates that some incidents happened in Chandigarh. However, the complainant has explicitly mentioned that in the first week of November 2021, Ashok Dahra, petitioner no.1, Sushil Dahra, petitioner no.2, Rahul Gupta, and Sudesh Gupta visited her house at Jalgaon, where she paid a sum of Rs.60 lac. At that place, they also took her signatures on stamp papers they had brought. Thus, two alleged incidents of

crime occurred at Jalgaon: firstly, receipt of cash of Rs.60 lac and secondly, taking of complainant's signatures on blank stamp papers.

6. This Court does not have territorial jurisdiction over the State of Maharashtra. Chapter XIII CrPC demarcates and defines the jurisdiction of the Courts. Per Section 178(b) CrPC, the Court where any part of the offence has been committed would have jurisdiction over such local areas.

7. In addition to that, Section 156 CrPC confers powers upon an officer-in-charge of a Police Station to investigate a cognizable offence in which a Court had jurisdiction over the local area. As such, it is clear that the police station at Jalgaon has primary jurisdiction to inquire and investigate the offence. However, if the Investigator(s) at Jalgaon, thinks it otherwise, it is for them to transfer the FIR to Chandigarh.

8. Let us take an illustration to analyze it on the part of the petitioners. If someone in one part of the country receives an extortion call from another part of the country and such victim visits the nearest police station, who is then asked to travel all the way to the other part from where the call had originated, it would on the face of it, be absurd and would cause more injustice to the victim of crime than the person threatening call itself. This is not the intention of the Legislature, which is why these provisions have been explicitly mentioned in the Code of Criminal Procedure.

9. In '*Navinchandra N. Majithia Vs. State of Maharashtra and Ors.*,' MANU/SC/0549/2000; (2000) 7 SCC 640, Hon'ble Supreme Court holds,

[42]. We make it clear that the mere fact that FIR was registered in a particular State is not the sole criterion to decide that no cause of

action has arisen even partly within the territorial limits of jurisdiction of another State. Nor are we to be understood that any person can create a fake cause of action or even concoct one by simply jutting into the territorial limits of another State or by making a sojourn or even a permanent residence therein. The place of residence of the person moving a High Court is not the criterion to determine the contours of the cause of action in that particular writ petition. The High Court before which the writ petition is filed must ascertain whether any part of the cause of action has arisen within the territorial limits of its jurisdiction. It depends upon the facts in each case.

10. In '*M. Loganathan Vs. K.S. Amar (Amer), MANU/KA/0455/2023; Neutral Citation: 2023/KHC /11328*', Karnataka High Court, referred to High Court of Madras in the case of '*Ilanahai vs. The State of Maharashtra in MANU/TN/0050/2015*', it was observed as follows:

[40]. Thus, in my considered opinion, so far as the power under Section 482 of the Code of Criminal Procedure for the purpose of quashing the F.I.R. is concerned, the only criteria is the situs of the Authority who has registered the case and not the place of commission of the crime either in full or in part. Similarly, the Writ jurisdiction of the High Court under Article 226 of the Constitution to quash a Criminal case also does not extend beyond the territorial limits of the said High Court if the case is pending on the file of an Authority, who is located outside the territorial limits of the said High

Court. This conclusion is inescapable, in view of the authoritative pronouncement of the Larger Bench of the Hon'ble Supreme Court in Dashrath Rupsingh Rathod v. State of Maharashtra, MANU/SC/0655/2014 : 2014 (2) MWN (Cr.) DCC 145 (SC), wherein the Court has held that the concept of "cause of action" which is relevant to Civil Law cannot be imported to Criminal Law".

11. Given the above, there is no need for interference. The appropriate Court which will have jurisdiction over this matter under Section 482 CrPC is the High Court of Bombay and not Punjab and Haryana High Court.

12. Consequently, the present petition is dismissed. However, the observations made hereinabove shall not come in the way of the petitioners.

Petition dismissed. All pending applications shall stand closed.

(MANISHA BATRA)
JUDGE

February 29, 2024
Parveen Sharma

Whether speaking/reasoned	:	Yes
Whether reportable	:	No