
(2014) 05 DEL CK 0152
In the Delhi High Court
Case No : W.P. (Crl.)1771/2012

Dr. V.B. Bhatia and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 06-05-2014

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Criminal Procedure Code, 1973 (CrPC) — Section 155(2), 156(1), 177, 177, 178
Dowry Prohibition Act, 1961 — Section 4
Penal Code, 1860 (IPC) — Section 109, 114, 120B, 34, 406

Citation : (2014) 210 DLT 249 : (2014) 2 DMC 528

Hon'ble Judges : Sunita Gupta, J

Bench : Single Bench

Advocate : Nupur Chaudhary, Advocate for R-1, 3-6, Mr. Sidharth Mittal, Advocate for R-2 and Mr. Rajesh Mahajan, ASC for R-7, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Sunita Gupta, J.—This is a writ petition under Article 226/227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 filed by Dr. V.B. Bhatia, Mrs. Rajni Bhatia, Mr. Puneet Bhatia, Ms. Gaayatri Malhotra, Mr. Arush Malhotra, who are the father-in-law, mother-in-law, husband, sister-in-law and husband of sister-in-law respectively of complainant respondent no. 2, Ms. Karishma Bhatia seeking following reliefs:-

- (i) Issue a writ of mandamus and/or any other appropriate writ, order or direction seeking quashing of FIR No. 855/2012 dated 16.11.2012, P.S. City Rohtak, Rohtak, Haryana;
- (ii) Transfer of the aforesaid FIR and the investigation to be conducted under the same to Delhi.
- (iii) Grant of anticipatory bail to the petitioners.

2. Petitioner No. 1, arguing in person on behalf of all the petitioners, submitted that the complainant initially made a complaint dated 7th September, 2012 where there was no reference to any allegation of harassment or cruelty committed by the petitioners at Rohtak. However, after the petitioner received summons on 25th September, 2012 in pursuance to the complaint made by the complainant, he sent an email along with a hard copy to the Director General of Police, Panchkula that complaint need not be pursued at Panchkula as the marriage took place at Delhi. The complainant lived with the petitioner and other family members at Delhi. Neither the petitioner nor his son or any of his relatives ever visited the girl's house in Rohtak. The alleged demand of dowry and cruelty took place in Delhi and no part of cause of action arose in Rohtak, as such, complaint initiated at Rohtak be closed. Subsequently, he also went to Rohtak and raised the issue of jurisdiction before the CAW cell, Rohtak. Thereupon, opinion was sought from SHO, CAW Cell for further action in the matter. Opinion was given by Deputy District Attorney on 23rd October, 2012 that no cause of action has arisen within the jurisdiction of District Rohtak, the offence has been committed in the jurisdiction of Delhi. Thereupon, a letter was sent by the Superintendent of Police, Rohtak, to Commissioner of Police, Delhi, stating therein that the territorial jurisdiction to deal with the complaint of Karishma Bhatia is at Delhi and as such complaint along with investigation report are being forwarded for further necessary action. The petitioner was also informed about the transfer of investigation to Commissioner of Police, Delhi. However, on coming to know about this fact that the investigation has been transferred to Delhi, complainant approached the Inspector General of Police, Rohtak on 16th November, 2012 thereupon a noting was made by the Inspector General of Police "why don't they register a case in this matter and investigate, please send your report immediately". Instead of informing the Inspector General of Police that the investigation has already been transferred to Delhi Police, complaint was marked to SHO who on 16th November, 2012 registered FIR No. 855/2012 under Sections 498A/406/34 IPC. The petitioner was informed by the SHO regarding registration of FIR. Thereupon petitioner again met Deputy Superintendent of Police as to how the FIR has been registered. Then the file was called back from Delhi police. He also sought information under Right to Information Act, 2005 seeking copy of statement of the complaint on the basis of which FIR No. 855/2012 dated 16th November, 2012 was registered. Surprisingly, there was no fresh statement and the FIR was registered on the earlier complaint, on the basis of which investigation was sent to Delhi police, as such, there was gross misuse of power by the police. It was further submitted that no cause of action has arisen at Rohtak, hence Court at Rohtak has no jurisdiction to try the complaint. Reliance was placed on Y. Abraham Ajith and Others Vs. Inspector of Police, Chennai and Another, ; Bhura Ram and Others Vs. State of Rajasthan and Another, ; Sterling Agro Industries Ltd. Vs. Union of India (UOI) and Others, ; Alchemist Limited and Another Vs. State Bank of Sikkim and Others, & Niraj Trivedi Vs. State of Bihar and Others .

3. It was further submitted that averments made in the FIR contain vague allegations. There are absolutely no allegations attracting the provisions of Section 406 IPC. Moreover, although in the FIR there is a reference to three earlier complaints dated 7th September, 2012, 28th September, 2012 and 17th October, 2012, but the same does not form part of the charge sheet. Reliance was placed on *Neelu Chopra and Another Vs. Bharti, , Lakhwinder Singh Vs. State of Punjab, and Ajay Mitra Vs. State of M.P. and Others, ,* where on the basis of vague allegations FIR was quashed. It was further submitted that when the complainant did not return to her matrimonial home after 9th July, 2012 then the petitioner moved an application under Right to Information Act, 2005 (RTI Act) to the Principal of Jat College, Rohtak seeking various information in order to ascertain as to whether the complainant was attending college or not, however, certain information was given but the material information was not given on the ground that the same was personal and was exempted under RTI Act. On coming to know about this application moved by the petitioner, complainant wrote a letter to the Chief Minister of Haryana alleging that her husband and father-in-law are mentally harassing and defaming her in her college by inquiring her college time, exam date, etc. This allegation has no nexus to the lis to confer jurisdiction upon the Court.

4. Petitioner further submitted that the High Court of Delhi has jurisdiction to issue the appropriate directions, orders, writs to protect the life and liberty of the Petitioners who are permanent residents of Delhi and since the cause of action has arisen within the territories in relation to which it exercises jurisdiction despite the fact that the charge sheet has now been submitted in the Court at Rohtak, the power to quash the FIR still vest in this Court. Reliance was placed on *Navinchandra N. Majithia Vs. State of Maharashtra and Others, and S.N. Sharma Vs. Bipen Kumar Tiwari and Others, .*

5. On the other hand, learned counsel for the respondents submitted that part of cause of action arose at Rohtak and the offence is continuing one. Hence, Court at Rohtak has jurisdiction to try the matter. Respondent/complainant in her complaints made to the police has made specific allegation as regard cruelty and demand of dowry against the Petitioners and some of the instances are also at Rohtak and further the offence is a continuing offence. Therefore, it cannot be said that no cause of action has arisen at Rohtak as Resp. 2 has been harassed at the hands of the petitioners both at Delhi and Rohtak and the said harassment is still continuing. Reliance was placed on *Sunita Kumari Kashyap Vs. State of Bihar and Another, .* It was further submitted that issue of territorial jurisdiction cannot be determined in proceedings for quashing of FIR and has to be determined by the Trial Court. Reliance was placed on *Geeta Mehrotra and Another Vs. State of U.P. and Another, .* Next, it was submitted that High Court's approach in exercise of its power u/s 482 should be cautious, careful and circumspect. Court should not go into the merits of the allegation. Reliance was placed on *Sanapareddy Maheedhar and Another Vs. State of Andhra Pradesh and Another, .*

6. Let us first look at the complaint filed by Respondent No. 2. The FIR in question has a reference to all the three complaints made by the complainant/respondent No. 2 dated 7th September 2012, 28th September, 2012 and 18th October 2012.

7. Respondent No. 2 in her first complaint stated that her marriage with Petitioner No. 3 was solemnized on 18th January, 2012. She had already started pursuing M.Sc. in Chemistry from a college in Rohtak before her marriage and as her in-laws wished that she complete her studies, she continued her studies in Rohtak after marriage and used to come to Delhi during her holidays. On 19th April, 2012, her father-in-law and mother-law taunted her for not giving a car in the marriage. Her mother-in-law, father-in-law and sister-in-law used to taunt her and curse each member of her family that they did not have any sense. She used to be confined within the four walls of the house and was made to do all the house-hold work. She was not considered as a member of their family. She was not allowed to talk to her parents on telephone. In the first week of June, her father-in-law told her that he will teach her how to use the laptop and used to try to go very near to her due to which she used to get very frightened. He also used to go to her room without knocking on some pretext or the other. In June, her brother and maternal uncle invited her in-laws for dinner but they avoided the same by saying that they are busy with construction work. On 5th June, 2012, when her husband came, she asked him if they could go and visit her brother's house on which her father-in-law told her that she is having some disease on her face and that she also did not have a job, therefore, she was of no use to them and she should go away from there. When she tried to speak, her husband twisted her arm and after putting his hand on her mouth sent her to her room. Even prior to this, her husband had asked her to leave the house many times. Thereafter the sequence of cruel treatment aggravated further. She was tortured mentally and was blamed for the things she didn't do. Her father-in-law told her that he did not accept her as her daughter-in-law because her qualification is not good enough for getting a job in Delhi; she did not have a job; his son had a government job; his post was also higher and so he could get many girls with government jobs. Her parents had not given dowry according to their wishes and a car has not been given in marriage. When she informed her husband, then he asked her to comply with whatever his father said, otherwise she would have to leave the house. On 7th July, 2012 her husband and in-laws remained away from home for the whole day after locking her inside the house and kept on doing meetings among themselves and on asking her husband about it many times, he pressed her neck. On 8th July, 2012, her father-in-law narrated to her a list of faults from a diary he had been maintaining: "you have put POP on your face, neither do you earn anything nor can you get a Govt. job in Delhi, nor have your parents given dowry according to our expectations". Thereafter she was asked to leave the house along with her belongings and told her to first get a laser treatment done, get a job, learn driving and then they would think of letting her come back. Her father-in-law also threatened her that if she told anyone about

this, he was a Ph.D. in law and has turned lies into truth and truth into lies and will use all means to harass her. When she reached her house in Rohtak, her mother spoke to her mother-in-law over the phone and her mother-in-law asked her mother not to worry and to do as her father-in-law says.

8. In her second complaint dated 28th September 2012, she stated that after her marriage, whenever she visited her house in Rohtak with her husband, petitioner No. 3, he always harassed her to ask her parents for a luxurious car and when her parents told him that they were not in a position to give a car, especially a luxury car, he along with his parents threw her out of the matrimonial house. On 25th September, 2012 when petitioner No. 1 came to Women Cell, he shouted and threatened her and her family members saying "Na Gaddi di, Na Paisa diya, phir bhi kehte hai hamari ladki ko basa lo" and again on 27th September, 2012 when he came to Women Cell along with his wife, he threatened her saying "Ab tu hamare ghar ghusne ka khwab chod de, hum teri zindagi barbad kardenge".

9. In the third complaint dated 18th October, 2012, she reiterated the incident stated in first complaint that on 19.08.2012, her father-in-law and mother-in-law came to her maternal uncle's residence at Greater Kailash where her father, mother, brothers, maternal uncles were also present. At that time her father-in-law admitted that he had given a list of dowry items to her in which they demanded a luxurious car for Puneet, 5 lakhs cash to give gifts to her sister-in-law Gaayatri Malhotra and her husband Arush Malhotra on account of promotion of her husband, gold bangles for her mother-in-law, fridge, LCD TV, microwave, air conditioner for Puneet's government allotted house at Chandigarh. They again and again pressurised her family members for giving these items if she wanted to enter her in-laws' house. On 23rd August, 2012 her father-in-law, mother-in-law along with her sister-in-law and her husband came to Rohtak on the pretext of wishing her on her birthday but at the same time, they all pressurised and mentally tortured her and her parents that she must bring all the dowry articles if she wanted to live in her in-laws' house. On 27th August, 2012, when she went to Chandigarh to meet her husband, he again shouted at her that if she was unable to bring the items as demanded, then he will not accept her as his wife.

10. Since the thrust of the argument of the petitioner is regarding the territorial jurisdiction about the criminal proceedings initiated by respondent No. 2 - wife, it is desirable to refer the relevant provisions of law.

11. Chapter XIII of the Code of Criminal Procedure, 1973 (in short "the Code") deals with jurisdiction of the Criminal Courts in inquiries and trials. Section 177 to 179 are relevant which are as follows:-

177. Ordinary place of inquiry and trial.--Every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed.

178. Place of inquiry or trial.--(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.

179. Offence triable where act is done or consequence ensues.--When an act is an offence by reason of anything which has been done and of a consequence which has ensued, the offence may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued.

12. From the above provisions, it is clear that the normal rule is that the offence shall ordinarily be inquired into and tried by the Court within whose local jurisdiction it was committed. However, when it is uncertain in which of several local areas an offence was committed or where the offence is committed partly in one local area and partly in another or where an offence is a continuing one, and continuous to be committed in more than one local areas and takes place in different local areas as per Section 178, the Court having jurisdiction on any of such local area is competent to inquire into and try the offence. Section 179 makes it clear that if anything happens as a consequence of the offence, the same may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued.

13. Keeping the above provisions in mind, let us examine the judgments cited by the parties for the purpose to find out as to whether the Court of Rohtak has territorial jurisdiction to take cognizance and proceed with the matter.

14. Petitioner relied upon the judgment of the Hon''ble Supreme Court in the case of Y. Abraham Ajith (supra). The fact which arose before the Hon''ble Supreme Court was that the respondent had filed a complaint in the Court of the Magistrate alleging commission of offences punishable under Sections 498A and 406 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act. The Hon''ble Supreme Court examined the matter in the context of cause of action and part thereof, and considered any cause of action within the jurisdiction of the court concerned which may authorize him to take cognizance in the matter. The complaint petition itself disclosed that after 15th April, 1997, the respondent left Nagercoil and came to Chennai, where she settled. All the allegations which was per se without any dispute took place, according to the complainant petition at Nagercoil and, therefore, the courts at Chennai did not have the jurisdiction to take cognizance and it was alleged that no cause of action had taken place within the limit of Chennai Court and as such there is no justification for taking cognizance by Chennai Court. In that context the court examined the provisions

of Sections 177 and 178 of the Code and also examined meaning of cause of action. The court also considered that ordinarily when the offence is limited to a particular place and when there is no allegation of continuation of offence, in that circumstances the real test will be cause of action and part thereof and the court gave its view that wherever the offence has been committed in context of Section 498A of the Indian Penal Code, the Court in whose jurisdiction the offence has been committed or part thereof will have jurisdiction and no complaint petition by the complainant will be entertained where she was ordinarily residing subject to the condition that no part of cause of action has taken place in the jurisdiction of the court taking cognizance. In this connection, the following paragraphs of the said judgment will be relevant for the proper consideration:-

12. The crucial question is whether any part of the cause of action arose within the jurisdiction of the concerned Court. In terms of Section 177 of the Code, it is the place where the offence was committed. In essence, it is the cause of action for initiation of the proceedings against the accused.

13. 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.

14. 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.

15. The expression "cause of action" has acquired a judicially settled meaning. In the restricted sense cause of action means the circumstances forming the infraction of the right or the immediate occasion for the action. In the wider sense, it means the necessary conditions for the maintenance of the proceeding including not only the alleged infraction, but also the infraction coupled with the right itself. Compendiously the expression means every fact, which it would be necessary for the complainant to prove, if traversed, in order to support his right or grievance to the judgment of the Court. Every fact, which is necessary to be proved, as distinguished from every piece of evidence, which is necessary to prove such fact, comprises in "cause of action."

The court after applying the legal principles concluded that no part of cause of action arose in Chennai and directed to return the complaint petition and to file the same before the appropriate court to be dealt with in accordance with law.

15. In another judgment relied upon by the petitioner in the case of Bhura Ram (supra), the Hon'ble Supreme Court examined the authority of taking cognizance

by the Court where the cause of action and part thereof has taken place. In this case also the jurisdiction of the Additional Chief Judicial Magistrate was challenged on the ground that the Magistrate has no jurisdiction to try the offence as the cause of action has not accrued within the jurisdiction of Court. The matter travelled up-to Hon"ble Supreme Court. It was argued before the court that Section 498A of the Indian Penal Code being a continuing offence the complaint cannot be dismissed on the ground that the court has no jurisdiction. It was argued that offence of cruelty being continuing offence will travel along with the complainant and where she was residing. The court followed the earlier judgment in the case of Y. Abraham Ajith and held that the facts mentioned in the complaint petition disclosed that all cause of action has taken place outside the jurisdiction of Court of Ganganagar and it was found that all cause of action has taken place in the State of Punjab and no part of cause of action arose in the State of Rajasthan and following the earlier judgment, allowed the appeal with a direction to return the complaint petition to the complainant and if so desire she may file the same in the appropriate court to be dealt with in accordance with law.

16. It is pertinent to note that the concept of continuing offence and fall out that has taken place in another place was not under consideration in the above cases. In Manish Ratan and Others Vs. State of M.P. and Another, also, it was found that the cause of action has arisen at Datia Court, hence complaint was ordered to be transferred to competent Court of jurisdiction.

17. Learned counsel for the respondent, on the other hand, relied upon Sunita Kumari Kashyap Vs. State of Bihar and Another, , wherein the wife had filed the complaint at Gaya alleging ill treatment and cruelty at the hands of her husband and relatives at matrimonial home in Ranchi and that she was forcibly taken to her parental home at Gaya by her husband with a threat of dire consequences in case their dowry demands were not met. It was held that as the offence was a continuing one and episode at Gaya was only consequence of continuing offence of harassment and ill-treatment meted out to the complainant, Magistrate at Gaya has the jurisdiction to proceed with criminal case instituted therein.

18. Hon"ble Supreme Court also referred to an earlier decision rendered in Smt. Sujata Mukherjee Vs. Prashant Kumar Mukherjee, in which similar issue was considered by Hon"ble Supreme Court and found that Clause (c) of Section 178 of the Code is attracted and the Magistrate at wife"s parents" place has also jurisdiction to entertain the complaint. In the said decision, wife was the Appellant and the Respondents were the husband, parents-in-law and two sisters-in-law of the Appellant Sujata Mukherjee. The gist of the allegation of the Appellant, Sujata Mukherjee was that on account of dowry demands, she had been maltreated and humiliated not only in the house of her in-laws at Raigarh but as a consequence of such events, the husband of the Appellant had also come to the house of her parents at Raipur and assaulted her. On behalf of the Respondents therein, it was contended before the learned Chief Judicial

Magistrate, Raipur that the criminal case was not maintainable before the said learned Chief Judicial Magistrate because the cause of action took place only at Raigarh which was outside the territorial jurisdiction of the learned Magistrate at Raipur. A prayer was also made to quash the summons issued by the learned Chief Judicial Magistrate while entertaining the said complaint of Smt. Mukherjee. As the Chief Judicial Magistrate was not inclined either to quash the summons or to transfer the criminal case to the competent court at Raigarh, the criminal revision petitions were filed before the High Court, one by all the five Respondents and another by four of the Respondents excluding the husband presumably because there was specific allegation against the husband that the husband had also gone to Raipur and had assaulted the Appellant and as such the husband could not plead want of territorial jurisdiction. Both the said criminal revision cases were disposed of by a common order dated 31.08.1989 by the High Court holding that the case against the husband of the Appellant alone is maintainable and in respect of other Respondents related to the incidents taking place at Raigarh, hence, the criminal case on the basis of complaint made by the Appellant is not maintainable at Raipur. The said order of the High Court was challenged by the Appellant-Sujata Mukherjee before Hon"ble Supreme Court. It was submitted that it will be evident from the complaint that the Appellant has alleged that she had been subjected to cruel treatment persistently at Raigarh and also at Raipur and incident taking place at Raipur is not an isolated event, but consequential to the series of incidents taking place at Raigarh. Therefore, it was contended that the High Court was wrong in appreciating the scope of the complaint and proceeding on the footing that several isolated events had taken place at Raigarh and one isolated incident had taken place at Raipur. Hon"ble Supreme Court basing reliance on Section 178 of the Code, in particular Clauses (b) and (c), found that in view of allegations in the complaint that the offence was a continuing one having been committed in more local areas and one of the local areas being Raipur, the learned Magistrate at Raipur had jurisdiction to proceed with the criminal case instituted in such court.

Ultimately, accepting the stand of the Appellant, this Hon"ble Supreme Court held as under:

7...We have taken into consideration the complaint filed by the Appellant and it appears to us that the complaint reveals a continuing offence of maltreatment and humiliation meted out to the Appellant in the hands of all the accused Respondents and in such continuing offence, on some occasions all the Respondents had taken part and on other occasion, one of the Respondents had taken part. Therefore, Clause (c) of Section 178 of the Code of Criminal Procedure is clearly attracted.

19. In *Y. Abraham* (supra) itself reference was made to this authority and was distinguished as in that case there was no allegation of continuing offence.

20. In *State of M.P. Vs. Suresh Kaushal and Another*, , again in a similar circumstance, considering the provisions of Section 179 with reference to the

complaint relating to the offences u/s 498A read with Section 34 IPC, it was held as under:

6. The above Section contemplates two courts having jurisdiction and the trial is permitted to take place in any one of those two courts. One is the court within whose local jurisdiction the act has been done and the other is the court within whose local jurisdiction the consequence has ensued. When the allegation is that the miscarriage took place at Jabalpur it cannot be contended that the court at Jabalpur could not have acquired jurisdiction as the acts alleged against the accused took place at Indore.

21. In *Rajesh Kumar Pandey (supra)* relied upon by the petitioner, reference was made to the case of *Arun Khanna Vs. State of Bihar and Another* where the challenge was made that Dhanbad Court has no territorial jurisdiction to take cognizance of an offence which had taken place at Amritsar. The Court has considered the definition of cruelty which has been embodied in Section 498A of the Indian Penal Code and the Court also considered the consequences of the act committed by the accused persons which led to mental agony at Dhanbad. In other words, offence was treated to be continuing, considering the definition of cruelty in context of Section 498A of the Indian Penal Code and was given an extended meaning. The Court has held that if the woman continues to suffer the mental agony or torture as a result of the acts done to her by the husband or his relatives forcing her to leave the matrimonial home, it must be said that the cruelty is continuing. While construing the question of jurisdiction with respect to offence u/s 498A of the Indian Penal Code, the Court has held that social background and the object for which the said offence has been created has to be taken into consideration. If victim lady would be compelled to file a complaint only at the place where the act was committed, that is, at the place where the husband/in-laws reside, she might not be able to prosecute the complaint properly which will not serve the desired object and on consideration of the aforesaid aspect of the matter it was held that Dhanbad Court has rightly taken cognizance as the consequences of torture which was perpetrated to her in the State of Punjab continues to operate or it would have a fallout at the place where the complainant was residing.

22. We have already adverted to the details made by respondent No. 2 in the complaint. The complainant has levelled allegations of cruelty and ill-treatment at the hands of the petitioners and stated facts and incidents with respect to the same. Hence cause of action is evident from the complaints. Admittedly in view of the above, part of cause of action also arose in the territorial jurisdiction of Haryana. The complainant in her second and third complaint has clearly specified her husband's (petitioner No. 3) visit to Rohtak and the ill-treatment meted out to her and her parents at the behest of the petitioner and also the threats given by Petitioner No. 1 during his visits to the Women Cell. These incidents constitute a part of the FIR. Moreover, in view of Section 178 and Section 179 of the Cr.P.C., the offence in this case was a continuing one, having been committed in more

local areas and one of the local areas being Rohtak, the FIR was registered at Haryana. Therefore, the act of cruelty meted by the petitioners is a continuing offence and continues both in Delhi and Rohtak and therefore, the offence is triable by both the Courts in whose territorial jurisdiction the act of continuing offence of cruelty and ill-treatment has been committed.

23. The petitioner has also relied upon Sterling Agro Industries Ltd. (supra) and Alchemist Ltd. (supra) for submitting that for the purpose of deciding whether the facts averred by the petitioner would or would not constitute a part of cause of action, one has to consider whether such facts constitutes a material, essential, or integral part of the cause of action. Even if a small fraction of cause of action arises within the jurisdiction of the Court, the Court would have territorial jurisdiction to entertain the petition. Nevertheless, it must be a "part of cause of action", nothing less than that. However, these authorities have no application to the present case as the facts stated by the complainant in the complaints refers to the incidents alleged to have taken place at Rohtak and constitute an essential and integral "part of cause of action" and are not irrelevant as submitted by the petitioner.

24. In Niraj Trivedi (supra), relied upon by the petitioner, it was found that the concerned Court has no territorial jurisdiction to try the case. The complainant wife had either lived at Delhi or U.S.A. where the alleged atrocities took place as such, it was held that the Court at Patna (where her parents were living) had no jurisdiction but things are entirely different in the instant case as seen above. In Neelu Chopra (supra) and Lakhwinder Singh (supra), FIR was quashed since the allegations were vague. In Shipra Raj (supra) and Ajay Mishra (supra), FIR was quashed as it did not disclose any cause of action.

25. As regards the submission that there is misuse of police power since the complaint was initially sent to the Commissioner of Police, Delhi due to lack of territorial jurisdiction but subsequently on the same complaint, FIR was registered at Rohtak. As held in Lalita Kumari Vs. Govt. of U.P. and Others, , it is mandatory to register FIR on receipt of information disclosing a cognizable offence and no preliminary inquiry is required in such a situation.

26. Learned counsel for the respondent has also advanced the argument that jurisdictional aspect becomes relevant only when the question of inquiry or trial would arise. It is, therefore, a fallacious thinking that only a Magistrate having jurisdiction to try the case has the power to take cognizance of the offence. If he is a Magistrate of the First Class his power to take cognizance of the offence is not impaired by territorial restrictions. After taking cognizance, the Magistrate may have to decide as to whether the Court has jurisdiction to enquire into or try the offence and that situation would reach only during the post cognizance stage and not earlier. In Rajesh Kumar Pandey Vs. The State of Bihar and Another, , relied upon by the petitioner himself, reliance was made to Trisuns Chemical Industry Vs. Rajesh Agarwal and others, , where Hon"ble Supreme Court has considered Section 177, 178 and 179 of the Code and while considering Section

179 of the Code, the Court has tested the jurisdiction on the touch stone of cause of action and part thereof and also the consequences which have been ensued to the other place. There Hon"ble Supreme Court further held that there is nothing in Chapter-XIV which prohibits the Magistrate to take cognizance with regard to the allegation that has taken place outside the territorial jurisdiction and the Court has further held that the jurisdictional aspect becomes relevant only when the question of enquiry or trial would arise. In that connection, it will be relevant to quote the following portion of the said judgment:-

13. ...Therefore, when there is nothing in Chapter-XIV of the Code to impair the power of a Judicial Magistrate of First Class taking cognizance of the offence on the strength of any territorial reason, it is impermissible to deprive such a Magistrate of the power to take cognizance of an offence of course, in certain special enactments special provisions are incorporated for restricting the power of taking cognizance of offences falling under such acts. But such provisions are protected by non obstante clauses. Anyway that is a different matter.

27. During the course of arguments, it has come to our knowledge that the charge sheet has already been submitted before the learned Magistrate at Rohtak and an application for transfer has already been moved therein. Under the circumstances, it will be open to the Magistrate concerned to decide the application uninfluenced by any observation made in this order.

28. It was further submitted by petitioner that in the charge sheet filed by the police at Rohtak three complaints made by respondent Nos. 2 dated 7th September, 2012, 28th September, 2012 and 18th October, 2012 does not form part thereof. It goes without saying that court has ample power to call for the three complaints reference of which was made in complaint dated 16th November, 2012. In any case, this aspect of the matter is required to be considered by the concerned Magistrate.

29. With respect to the powers of High Court under Article 226 or u/s 482 Cr.P.C. in quashing of an FIR, learned counsel for respondent No. 2 relied upon Sanapareddy Maheedhar and Another Vs. State of Andhra Pradesh and Another, , where Hon"ble Supreme Court referred to number of judgments rendered earlier and observed:-

26. At this stage, we may also notice the parameters laid down by this Court for exercise of power by the High Court u/s 482 Cr.P.C. to give effect to any order made under the Cr.P.C. or to prevent abuse of the process of any court or otherwise to secure the ends of justice. In R.P. Kapur Vs. The State of Punjab, this Court considered the question whether in exercise of its power u/s 561A of the Code of Criminal Procedure, 1898 (Section 482 Cr.P.C. is pari materia to Section 561A of the 1898 Code), the High Court could quash criminal case registered against the appellant who along with his mother-in-law was accused of committing offences u/s 420, 109, 114 and 120B of the Indian Penal Code. The appellant unsuccessfully filed a petition in the Punjab High Court for quashing the

investigation of the First Information Report (FIR) registered against him and then filed appeal before this Court. While confirming the High Court's order this Court laid down the following proposition:

The inherent power of High Court u/s 561A, Criminal P.C. cannot be exercised in regard to matters specifically covered by the other provisions of the Code. The inherent jurisdiction of the High Court can be exercised to quash proceedings in a proper case either to prevent the abuse of the process of any court or otherwise to secure the ends of justice. Ordinarily criminal proceedings instituted against an accused person must be tried under the provisions of the Code, and the High Court would be reluctant to interfere with the said proceedings at an interlocutory stage. It is not possible, desirable or expedient to lay down any inflexible rule which would govern the exercise of this inherent jurisdiction.

30. This Court then carved out some exceptions to the above stated rule. These are:

(i) Where it manifestly appears that there is a legal bar against the institution or continuance of the criminal proceedings in respect of the offences alleged. Absence of the requisite sanction may, for instance, furnish cases under this category;

(ii) Where the allegations in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety, do not constitute the offence alleged; in such cases no question of appreciating evidence arises; it is a matter merely of looking at the complaint or the First Information Report to decide whether the offence alleged is disclosed or not;

(iii) Where the allegations made against the accused person do constitute an offence alleged but there is either no legal evidence adduced in support of the case or the evidence adduced clearly or manifestly fails to prove the charge. In dealing with this class of cases it is important to bear in mind the distinction between a case where there is no legal evidence or where there is evidence which is manifestly and clearly inconsistent with the accusation made and cases where there is legal evidence which on its appreciation may or may not support the accusation in question. In exercising its jurisdiction u/s 561-A the High Court would not embark upon an enquiry as to whether the evidence in question is reliable or not. That is the function of the trial magistrate, and ordinarily it would not be open to any party to invoke the High Court's inherent jurisdiction and contend that on a reasonable appreciation of the evidence the accusation made against the accused would not be sustained.

31. In *State of Haryana and others Vs. Ch. Bhajan Lal and others*, this Court considered the scope of the High Court's power u/s 482 of Cr.P.C. and Article 226 of the Constitution to quash the FIR registered against the respondent, referred to several judicial precedents including those of *State of Bihar and Another Vs. J.A.C. Saldanha and Others*, and *State of West Bengal and Others Vs. Swapan Kumar Guha and Others*, and held that the High Court should not

embark upon an enquiry into the merits and demerits of the allegations and quash the proceedings without allowing the investigating agency to complete its task. At the same time, the Court identified the following cases in which the FIR or complaint can be quashed:

102. (1) Where 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 FIR do not disclose a cognizable offence, justifying an investigation by police officers u/s 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) Where the allegations in the FIR 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 u/s 155(2) of the Code.

(5) Where the allegations made in the FIR 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 Act concerned (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 Act concerned, 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.

32. The ratio of Bhajan Lal's case has been consistently followed in the subsequent judgments. In Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque (*supra*), this Court referred to a large number of precedents on the subject and observed:

11. ...the powers possessed by the High Court u/s 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court being the highest court of a State should normally refrain from giving a prima facie decision in a case where the entire

facts are incomplete and hazy, more so when the evidence has not been collected and produced before the court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material. Of course, no hard-and-fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing the proceeding at any stage. It would not be proper for the High Court to analyse the case of the complainant in the light of all probabilities in order to determine whether a conviction would be sustainable and on such premises arrive at a conclusion that the proceedings are to be quashed. It would be erroneous to assess the material before it and conclude that the complaint cannot be proceeded with. In a proceeding instituted on complaint, exercise of the inherent powers to quash the proceedings is called for only in a case where the complaint does not disclose any offence or is frivolous, vexatious or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same in exercise of the inherent powers u/s 482 of the Code. It is not, however, necessary that there should be meticulous analysis of the case before the trial to find out whether the case would end in conviction or acquittal. The complaint has to be read as a whole. If it appears that on consideration of the allegations in the light of the statement made on oath of the complainant that the ingredients of the offence or offences are disclosed and there is no material to show that the complaint is mala fide, frivolous or vexatious, in that even there would be no justification for interference by the High Court. When an information is lodged at the police station and an offence is registered, then the mala fides of the informant would be of secondary importance. It is the material collected during the investigation and evidence led in court which decides the fate of the accused person. The allegations of mala fides against the informant are of no consequence and cannot by themselves be the basis for quashing the proceedings.

It was further held as under:-

31. A careful reading of the above noted judgments makes it clear that the High Court should be extremely cautious and slow to interfere with the investigation and/or trial of criminal cases and should not stall the investigation and/or prosecution except when it is convinced beyond any manner of doubt that the FIR does not disclose commission of any offence or that the allegations contained in the FIR do not constitute any cognizable offence or that the prosecution is barred by law or the High Court is convinced that it is necessary to interfere to prevent abuse of the process of the court. In dealing with such cases, the High Court has to bear in mind that judicial intervention at the threshold of the legal process initiated against a person accused of committing offence is highly detrimental to the larger public and societal interest. The people and the society have a legitimate expectation that those committing offences either against an individual or the society are expeditiously brought to trial and, if found guilty, adequately punished. Therefore, while deciding a petition filed for quashing the

FIR or complaint or restraining the competent authority from investigating the allegations contained in the FIR or complaint or for stalling the trial of the case, the High Court should be extremely careful and circumspect. If the allegations contained in the FIR or complaint discloses commission of some crime, then the High Court must keep its hands off and allow the investigating agency to complete the investigation without any fetter and also refrain from passing order which may impede the trial. The High Court should not go into the merits and demerits of the allegations simply because the petitioner alleges malus animus against the author of the FIR or the complainant. The High Court must also refrain from making imaginary journey in the realm of possible harassment which may be caused to the petitioner on account of investigation of the FIR or complaint. Such a course will result in miscarriage of justice and would encourage those accused of committing crimes to repeat the same. However, if the High Court is satisfied that the complaint does not disclose commission of any offence or prosecution is barred by limitation or that the proceedings of criminal case would result in failure of justice, then it may exercise inherent power u/s 482 Cr.P.C.

33. Learned Counsel for the respondent also relied on *Satvinder Kaur Vs. State (Govt. of N.C.T. of Delhi)* and *Another*, , where it was observed as under:

14. Further, the legal position is well settled that if an offence is disclosed the Court will not normally interfere with an investigation into the case and will permit investigation into the offence alleged to be completed. If the F.I.R., prima facie, discloses the commission of an offence, the Court does not normally stop the investigation, for, to do so would be to trench upon the lawful power of the police to investigate into cognizable offences. It is also settled by a long course of decision of this Court that for the purpose of exercising its power u/s 482, Cr. P.C. to quash an FIR or a complaint, the High Court would have to proceed entirely on the basis of the allegations made in the complaint or the documents accompanying the same per se; it has no jurisdiction to examine the correctness or otherwise of the allegations.

34. Reliance was also placed on *State of Madhya Pradesh Vs. Awadh Kishore Gupta and Others*, , where it was held that when an information is lodged at the police station and an offence is registered, then the mala fides of the Informant would be of secondary importance. It is the material collected during the investigation and evidence led in Court which decides the fate of the accused person. The allegations of mala fides against the informant are of no consequence and cannot by itself be the basis for quashing the proceedings.

35. In view of the legal proposition enunciated above, so far as the first relief sought by the petitioner regarding quashing of FIR registered at Police Station Citi Rohtak, Rohtak, Haryana on the ground that no cause of action arose at Rohtak, charge sheet has already been submitted and the concerned Magistrate is seized of the matter before whom the application for transfer has already been moved. Under the circumstances, it will be open to the Magistrate to dispose of

the application uninfluenced by any observations made in this matter.

36. As regards the plea taken in the petition that the allegations made in the complaint are false, that goes to the merits of the case and cannot be decided in this petition.

37. As regards, the relief seeking issuance of a writ of mandamus of transferring FIR from police station City Rohtak, Rohtak, Haryana, and investigation be conducted at Delhi, the same has become infructuous as the investigation is already complete and charge sheet has already been submitted at Rohtak.

38. The third relief seeking the issuance of a writ of mandamus for admitting petitioners to anticipatory bail in the aforesaid FIR, the same has also become infructuous as the petitioners have already been released on bail.

39. With these observations, the petition is dismissed. Pending applications, if any, also stand disposed of accordingly.