
(2009) 10 GUJ CK 0067
In the Gujarat High Court

Case No : Misc. Criminal Application No's. 12361 of 2008 and 9071 of 2009

Hrishikesh and Others

APPELLANT

Vs

State of Gujarat and Others

RESPONDENT

Date of Decision : 27-10-2009

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156, 170, 177, 178, 438
Penal Code, 1860 (IPC) — Section 498A

Citation : (2010) 2 DMC 579 : (2010) 51 GLR 1551

Hon'ble Judges : Ravi R. Tripathi, J

Bench : Single Bench

Advocate : B.M. Mangukiya, for the Appellant; Devang Vyas, Addl. P.P. and S.P. Majmudar, Advocate, for the Respondent

Judgement

Ravi R. Tripathi, J.—Present petition is filed by as many as five petitioners. Petitioner No. 1 is husband, petitioner No. 2 is father-in-law of respondent No. 2 - wife of respondent No. 1, petitioner No. 3 is mother-in-law of respondent No. 2 and wife of petitioner No. 2 and mother of petitioner No. 1, petitioner Nos. 4 and 5 are sisters of petitioner No. 1 and daughters of petitioner Nos. 2 and 3. The relief sought for in this petition reads as under:

25(b). Be Pleased to quash the First Information Report lodged with the Mahila Police Station, Ahmedabad City, Ahmedabad recorded as CR-I No. 54 of 2008.

2. This petition was filed on 29-9-2008, affirmed on 6th October, 2008. The matter was taken up for consideration on 17-10-2008, where in this Court (Coram : Hon"ble Mr. Justice D. H. Waghela) passed the following order:

None present for the petitioners even as the matter was called out twice during the course of the day. Even on earlier occasion, no one has remained present for the petitioners. Therefore, dismissed.

Misc. Criminal Application No. 13974 of 2008 was filed for restoration of the main matter by recalling the order passed by this Court on 17th October, 2008. That

application was allowed by order dated 24-10-2008 (Coram : Hon''ble Mr. Justice D. H. Waghela). The order reads as under:

The application is allowed and original Misc Criminal. Application No. 12361 of 2008 is ordered to be restored and listed for admission hearing on 10-11-2008.

On 10-11-2008, the Court passed the following order (Coram : Hon''ble Mr. Justice D. H. Waghela):

Heard learned Senior Advocate Mr. S.V. Raju for the respondents.

Rule returnable on 27-11-2008. Learned A.P.P. Ms. M. L. Shah waives service for respondent No. 1. Learned Advocate Mr. Purohit appears and waives service for respondent Nos. 2 and 3. Ad-interim relief interms of Para 25(d). It was agreed that, as far as practicable, the matter may be heard for final disposal on the returnable date.

(Emphasis supplied)

3. As the matter was not heard on the returnable date, the respondent Nos. 2 and 3 were constrained to file Misc Criminal. Application No. 9071 of 2009 praying for vacating the interim relief. The prayer reads as under:

(5)(B) Your Lordships may be pleased to vacate the ad-interim relief granted by this Hon''ble Court vide order dated 10-11-2008 in Misc Criminal Application No. 12361 of 2008 (at ANNEXURE-I hereto).

Today, the main matter is also notified along with Misc Criminal Application filed for vacating of interim relief. Taking into consideration the nature of the controversy involved in the matter and taking into consideration the order passed by this Court as back as on 10-11-2008 (almost one year back), it is deemed proper to take up the matter for final hearing.

4. Mr. Mangukia, learned Advocate for the petitioners, vehemently argued that the complaint filed by respondent No. 2, is absolutely malicious and is filed only with an object to harass not only the petitioner No. 1-husband but also the aged parents, particularly the father-in-law aged about 76 old and who has "retired from business", mother-in-law aged about 66 years and two sisters-in-law who are already married and settled at their marital home.

(Emphasis supplied)

5. Learned Advocate for petitioners, to place the aforesaid submissions more effectively, read the contents of Paras 3, 4, 5, 6 and 7 of the petition. The same are reproduced for ready reference.

3. The petitioners state that the petitioner No. 1 is a Software Engineer. After having completed graduation in Electronics Communication from Manipal Institute of Technology, the petitioner worked with several software companies and at present the petitioner No. 1 is working in Tata Consultancy Services Limited at Bengaluru.

4. The petitioners state that the petitioner No. 2 is at present residing at Swargath Madam, Lokmaley village, Kodungallor. The petitioner No. 2 is aged about 76 years. The petitioner No. 2 is attending his industrial business. The petitioner No. 2 is also attached with other social activities. The petitioner No. 2 is the Chairman of Bhartiya Vidhya Bhavan, Kodungallor Kendra. The petitioner No. 2 is the Member of the Board of Management of the Sudheendra Medical Mission Hospital, Ernakulam and Dr. Padiyar Memorial Homeo College, Cochin and Shri Sukratheendra Oriental Research Institute at Cochin. The petitioner No. 2 was instrumental for setting up a branch of Vivekananda Kendra as its convener at Kodungallor where Vivekananda Vedic Mission is now functioning.

5. The petitioners state that the petitioner No. 3 is mother of the petitioner No. 1 and wife of the petitioner No. 2. The petitioner No. 3 is aged about 66 years. She is housewife.

6. The petitioners state that the petitioner No. 4-Mrs. Laxmi is daughter of the petitioner Nos. 2 and 3; she is housewife aged about 32 years. She married with Dr. S. Rakesh Rao. The petitioner No. 4 is mother of two kids, named Akshat Rao aged about 6 years and Moksha, aged 9 months. She is a wet mother.

7. The petitioners state that the petitioner No. 5-Mrs. Nandini is daughter of the petitioner Nos. 2 and 3 and sister of the petitioner No. 1. Petitioner No. 5 is aged about 41 years. She is also housewife, married with D. Regil Das. She is mother of two kids-Krishna aged 18 years and Achyut Govind aged 11 years.

6. Learned Advocate for petitioners vehemently argued that petitioner No. 2, father-in-law, is an aged person and has already retired from business on account of his advanced age. However, the averments made in Para 4 are contrary to that. The averments made in Para 4 are that, "the petitioner No. 2 is very much active in not only in his own business, but also in social activities of the place where he resides. It is mentioned in so many words in Para 4 that "petitioner No. 2 is attending his industrial business". When the attention of the learned Advocate for the petitioners was invited to this aspect, he submitted that it is only on casual basis not on regular basis. The petitioner No. 2 attends the business and for all practical purpose, he has retired from the business. (Emphasis supplied)

7. Besides that, it is stated in the petition that, "the petitioner No. 2 is the Chairman of Bhartiya Vidhya Bhavan, Kodungallor Kendra, he is also the Member of the Board of Management of the Sudheendra Medical Mission Hospital, Ernakulam and Dr. Padiyar Memorial Homeo College, Cochin and also Shri Sukrathendra Oriental Research Institute at Cochin, he was also instrumental for setting up a branch of Vivekananda Kendra as its convener at Kodungallor where Vivekanda Vedic Mission is now functioning".

8. The learned Advocate for the petitioners read the complaint in toto and submitted that what is required to be noted from the complaint is that the offence is alleged to have taken place "since first night after the marriage till

date". He submitted that the F.I.R. is filed on 22-8-2008, i.e. much after the marriage, which took place on 8-7-2007. The learned Advocate emphatically submitted that what is set out in the F.I.R. are the incidents which took place either at Kerala or at Bangalore and not within the jurisdiction of the Gujarat police wherein the complaint is lodged. He submitted that if the complaint is perused, it will be clear that "bundle of incidents" have taken place after first night of the marriage till date. They all are individual, independent, unrelated to each other, and therefore, to file one single complaint is only with a view to harass the petitioners.

The learned Advocate for the petitioners vehemently submitted that out of five accused, three are women and two are men, of whom one is husband and other one is father-in-law and reiterated to remind to the Court that the intention behind filing this complaint is only to harass the entire family and to dictate her own terms, that the respondent No. 2 has filed the complaint before the Gujarat police. He submitted that the father-in-law is 76 years of age and due to his advanced age, he has already retired from the business but only with a view to see that the petitioners are brought to terms that the complaint is filed before Mahila Police Station, Ahmedabad City.

9. After reading the F.I.R., the learned Advocate for the petitioners invited attention of the Court to various averments made in the petition, like in Para 8, wherein it is stated that, "the petitioners have not visited Gujarat at any point of time during the period which is mentioned in the first information report".

The learned Advocate for the petitioners also invited attention of the Court to averments made in Para 10, wherein, according to him, the actual reason, in the root of the present dispute between the parties, which has resulted into filing of the present complaint by respondent No. 2, is that petitioner No. 1 and respondent No. 2 both are professionals and serving with Tata Consultancy Services. The learned Advocate also invited attention to the averments made in Para 12 wherein it is set out that,

...after the marriage, the respondent No. 2 (wife) appeared more professional than social. She never wanted to perform her duty as a wife and she insisted that she also wants to serve having some professional career. The petitioner No. 1 cannot expect anything from her. The petitioner No. 1 was expecting that by passage of time, wife-respondent No. 2 would realize that the professional career cannot be more important than the social life.

Similarly, the learned Advocate for the petitioners also invited attention of the Court to the averments made in Para 13, which reads as under:

13. The petitioners state that the respondent No. 2 wanted to go abroad and wanted the petitioner No. 1 to join her. The petitioner No. 1 informed the respondent No. 2 that the petitioner No. 1 being the only son of his parents and the age of the parents is not such which permit the petitioner No. 1 to go abroad....

10. Last but not the least, the learned Advocate for the petitioners invited attention of the Court to a part of Para 14 at page 9 of the memo of petition, which reads as under:

It is pertinent to note that the respondent No. 2 suffered from a dental problem having wisdom teeth which was required to be removed, and therefore, she was sent at Cochin by the petitioner No. 1 on her request on July 13, 2008. The brother-in-law of the petitioner No. 1 i.e. husband of the petitioner No. 4 who is a Faculty in the Amrita Institute of Medical Science Dental College where she was treated. This has happened on July 14, 2008. She stayed in Cochin from July 14, 2008 till July 22, 2008, and thereafter, after completion of her treatment there, not joined the petitioner No. 1 at Bengaluru, but went to Ahmedabad obtaining her transfer that too without knowledge of the petitioner No. 1.

The learned Advocate for the petitioners invited attention to the S.M.S. messages which are reproduced in that very Paragraph and submitted that the messages clearly show that the petitioner No. 1 is a loving husband and respondent No. 2 was responding to those messages in the same spirit. But thereafter, allegations are made in the F.I.R. with ill-motive.

11. The learned Advocate for the petitioners emphatically submitted that it is averred in Paragraph 15 that, "it may be noted that the alleged incident of violence alleged to have been committed on the person of respondent No. 2 have taken place either mostly at Bengaluru, Karnataka or Kerala. No incident of any physical torture or any harassment, torture or demand of dowry alleged to have taken place in the territory of the State of Gujarat. Neither of the alleged incident constituting the alleged offence has taken place in the territory of Gujarat, and therefore, no Court of the State of Gujarat will have a jurisdiction to try and adjudicate any of the criminal offence alleged against the petitioners....", the F.I.R. in question is required to be quashed and set aside.

12. What follows is important in Paragraph 17. The petitioners have made allegations which, in the opinion of this Court, are made only with a view to see that he is able to get open the door of Section 482 of the Criminal Procedure Code because in absence of these averments, the petition would not have been entertained by this Court. For ready reference, Para 17 is reproduced hereunder:

17. The petitioners state that knowing fully well that the concerned police officer, from the statement of the facts set out in the first information report, that no incident constituting the alleged offence has taken place in the territory of State of Gujarat much less within the territory of the jurisdiction of the concerned police station, under the influence of and active pressure the respondent No. 3 who is a senior administrative officer of the Indian Administrative Service and functioning as the Collector of Patan, came all the way to Kerala to arrest the petitioners in one fine morning, which forced the petitioners No. 2 to 5 to approach learned Sessions Judge at Ernakulam for the transitory bail u/s 438 of the Code of Criminal Procedure. The learned Addl. Sessions Judge, Ernakulam,

vide his order dated September 4, 2008, directed the petitioner Nos. 2 to 5 be released on bail in the event of their arrest in connection with the first information report recorded as CR-I No. 54 of 2008 with Women Police Station at Ahmedabad. Copy of the order dated September 4, 2008 passed by the learned Addl. Sessions Judge, Ernakulam is annexed hereto and marked as Annexure-C to this petition.

(Emphasis supplied)

The Court is of the opinion that these averments are made without giving any details as to what influence respondent No. 3 caused on the police personnel and what is that active pressure, asserted by respondent No. 3 in the matter. The Court is also of the opinion that these averments are made with a view to see that a favourable order is obtained from the Court. The Court is making these observations after taking into consideration the detailed affidavit filed by respondent No. 2-wife.

The situation emerging from the records is otherwise. It can be seen that the petitioners, through petitioner No. 2, are influential enough to get a FAX sent by Home Minister, Karnataka to Home Minister of Gujarat State. This is mentioned in Para 33 at page 99. Para 33 is reproduced for ready perusal, hereunder:

33. The malicious and mala fide intentions of the petitioners are also evident from the prayer to transfer the case out of Gujarat to Kerala and Karnataka. The Annexures attached herewith amply establishes that the petitioners enjoy extremely high social and political influence in Kerala and Karnataka. So much so that the Home Minister of Karnataka V.S. Acharya sends a FAX to the Home Minister of Gujarat, as admitted by the petitioners in their complaint addressed to the Hon"ble Chief Minister of Gujarat, that the petitioners are belonging to a very reputed family, and hence, all the proceedings in this complaint be dropped. The relevant portion from the petitioners' complaints addressed to the Hon"ble Chief Minister of Gujarat is reproduced as under:

The Home Minister of Karnataka did FAX to his counterpart the Home Minister of Gujarat that the criminal proceedings initiated at the instance of Mr. Vinod Rao is false and not to proceed with it.

In the e-mail addressed to Mr. S. Gurumurthy, annexed herewith, the petitioner 2 admits:

Through the Home Minister of Karnataka State V.S. Acharya who came to know about this has faxed a message to his counterpart in Gujarat, that this heinous action was an ill-motivated move on the part of Mr. Vinod Rao misusing his official position and requesting to ensure to defuse the situation....

There cannot be a better example of abuse of process of law, and attempt to subvert the process of investigation. There cannot be a better example than this to prove that I cannot get justice in Karnataka, where the Home Minister of the State concludes that the F.I.R. is malicious and false, even without reading the

F.I.R., or even without hearing the complainant victim, merely because the accused happen to be rich and powerful.

(Emphasis supplied)

13. The Court has all the reasons to believe that if respondent No. 2 is asked to go either to Kerala or Karnataka, there will be danger to her life. This is clear from the incidences narrated in the F.I.R. and stand substantiated from the subsequent conduct of the petitioners (particularly petitioner No. 2, who is so influential that he can get a Fax sent from Home Minister of Karnataka to Home Minister of Gujarat).

Para 34 is also material for the purpose of appreciating the actual influence of the petitioners (petitioner No. 2 in particular). Para 34 reads as under:

34. The same is the case in Kerala, where the petitioners admit that their local social and political influence prevented their arrest, despite the attempts of Gujarat Police. In his e-mail to Mr. S. Gurumurthy, petitioner 1 writes:

Luckily for me since my family is well known, even the execution of his attempt at Kerala Police level, to catch hold of us at midnight raids at our residents could not be materialized and we had to avoid the situation by moving out of the station under the advice of our well wishers....

The very reason for the request for my transfer from Bangalore to Ahmedabad, during my stay in Cochin is because of threats against "personal safety and security", perceived from these "well wishers" of the petitioners, which include senior and powerful politicians of Kerala and Karnataka, senior police officers of Kerala and Karnataka and also some criminal elements in society.

14. This discussion reveals the social and political influence of the petitioners in respective States. So far as the family of respondent No. 2 is concerned, it is stated in the affidavit-in-reply on page 54 (internal page 6 of the affidavit-in-reply) in Para 8 (Para 1), that,

Unlike the petitioners who belong to a rich, opulent, profligate, powerful and influential family, as is admitted and claimed by them in their affidavit, I belong to an ordinary, simple, middle-class family hailing from Cherthala town in Alleppey district of Kerala. My father V. Ramachandra Rao was working as Officer in Canara Bank, till he sought voluntary retirement in the end of 2007, due to worries and tensions following reports of abuses against me. My mother S. Sreedevi is a housewife. My brother Vinod R. Rao, despite all financial constraints and social limitations, was always excelling in his studies in School and College..." "...This he realized through years of concerted and ceaseless efforts, by clearing the Civil Services Examination 2000, with all-India 9th Rank. He joined I. A.S. in 2000 and is allocated to Gujarat cadre....

15. The attitude of petitioner No. 1 and petitioner No. 2 towards respondent No. 2 and her family is also reflected from the letter (complaint) written by them to

Shri Narendrabhai Modiji, the Hon''ble Chief Minister of Gujarat State, Gandhinagar, copy of which is produced at Annexure-I at page 112. The relevant part of the complaint reads as under:

The petitioners by the grace of God have overwhelming support of the community from all over India, on coming to know of this heinous act from the part of Mr. Vinod Rao, even the mathadhipati of Sri Kashimath Samsthan, desired him to trace back from this step. The Home Minister of Karnataka did fax to his counterpart the Home Minister of Gujarat that the criminal proceedings initiated at the instance of Mr. Vinod Rao is false and not to further proceed with it. The petitioners family are not in need of the pittance in the form of dowry from parents of this girl and had never demanded for the same at any point in time. The father of the girl was Manager in the lower rank at Canara Bank. The entire case was built-up on uncorroborated allegations incorporating the criminal sections to attract unailable to blackmail the petitioners offence which is quite unbecoming of an official.

(Emphasis supplied)

16. The question which follows for consideration is whether the F.I.R. which is challenged in this petition is required to be quashed by this Court while exercising powers u/s 482 of Cr.P.C.?

The learned Counsel for the petitioners vehemently submitted that:

(1) Gujarat police has no jurisdiction in the matter and is not supposed to carry out any investigation in the matter.

(2) Series of incidents which are mentioned in the F.I.R. are separate, independent and unrelated to each other and are not of continuous nature, and therefore, the same could not have been clubbed in the F.I.R. which is otherwise not maintainable in any case at a police station, in Gujarat.

(3) The F.I.R. is malicious one and it is filed in the police station in Gujarat only because the respondent No. 3 happens to be an Administrative Officer in the Gujarat cadre.

The learned Advocate for the petitioners reiterated that, "the intent of filing the F.I.R. at police station situated in Gujarat is clear from the fact that the respondent No. 2-complainant-wife has sought to implicate even female members of the family, namely mother-in-law and sisters-in-law, petitioner Nos. 3, 4 and 5."

17. In support of his submission, the learned Advocate for the petitioners relied upon a decision of the Hon''ble the Apex Court in the matter of Y. Abraham Ajith and Others Vs. Inspector of Police, Chennai and Another, The learned Advocate for the petitioners emphatically relied upon the observations made by the Hon''ble the Apex Court, which form part of Head Note of the judgment, which reads as under:

After investigation, the police filed the charge-sheet. When the matter stood thus, the appellants filed an application u/s 482 Cr.P.C. before the High Court alleging that the Magistrate concerned had no jurisdiction even to entertain the complaint even if the allegations contained therein were accepted in toto as no part of the cause of action arose within the jurisdiction of the Court concerned... Since all the alleged acts as per the complainant took place at N, the Court at C did not have the jurisdiction to deal with the matter. On the other hand, Respondent No. 2 submitted that the offences were continuing in terms of Section 178(c) Cr.P.C., and therefore, the Court at C had jurisdiction to deal with the matter.

The learned Advocate also relied upon the following observations made in Para 12 of the judgment of the Hon"ble the Apex Court.

12. The crucial question is whether any part of the cause of action arose within the jurisdiction of the Court concerned. 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.

The learned Advocate for the petitioners also relied upon the following observations of the Hon"ble the Apex Court made in Para 19, which reads as under:

19. ...in the complaint petition, the inevitable conclusion is that no part of cause of action arose in Chennai, and therefore, the Magistrate concerned had no jurisdiction to deal with the matter....

18. The Court did not restrain the learned Advocate from citing judgments of his choice. But, then it would have been a matter of appreciation if the learned Advocate had cited only those decisions of the Hon"ble the Apex Court which are applicable to the facts of the present case.

In the present case, on mere reading of the F.I.R., it is clear that the incidents narrated in the earlier part of the F.I.R. are only with a view to bring home the conduct, approach, mind frame of the petitioner Nos. 1 and 2 towards not only the respondent No. 2 but her entire family. The real part of the F.I.R. which the learned Advocate for the petitioners deliberately overlooked is last Para, wherein it is specifically mentioned that, "after the dental treatment, respondent No. 2 was to go to Bangalore from Cochin but she had to leave for Ahmedabad". The petitioner No. 1 administered threats after threats and those threats were found to be not an empty threat but threats with substance in light of the earlier conduct of the petitioner No. 1 and that is why the respondent No. 2 had to move directly from Cochin to Ahmedabad.

It is argued by the learned Advocate for the petitioners that respondent No. 2 with pre-plan had gone to Cochin for treatment of dental ailment, and thereafter, under that pre-plan, she left for Ahmedabad from Cochin.

This submission is found to be not only without any substance but also

misleading and is made only with a view to prejudice the Court towards respondent No. 2-wife. As such, the petitioners have tried to prejudice the Court by joining brother of respondent No. 2-wife, who happens to be the member of Administrative Service of the Gujarat State and making all type of allegations against him. Only because he happens to be the sister of a member of Administrative Service of the State, she cannot be denied the assistance, which is otherwise available to any other person.

This contention of the learned Advocate for the petitioners is found to be without any substance because if respondent No. 2 had any pre-planning to leave directly for Ahmedabad from Cochin, she would have not allowed important and valuable documents like original educational certificates and passport to be at Bangaluru while leaving for Cochin. Later part of the F.I.R. makes it very clear that after she came to Ahmedabad in first week of August, 2008, the petitioner No. 1 in co-operation with other petitioners continued to execute threats to respondent No. 2-wife. This is referred to in the last Para of the complaint, wherein it is stated that the husband directly and indirectly threatened respondent No. 2-wife on telephone and also went to the extent saying that if the wife takes any action against petitioner No. 1 and Ors. he will come to Ahmedabad and kill her.

19. As if this is not enough, the complainant-respondent No. 2-wife has mentioned in so many words that on 22-8-2008, petitioner No. 1-husband gave threat by telephoning respondent No. 2-wife from a "telephone booth" and stated that what harm she can cause to petitioner No. 1 as he has not allowed any evidence to remain in existence. He also stated that he was always telephoning from S.T.D. booth. It is further stated in the F.I.R. that, "even today, I am shown "present" in my office".

20. Taking into consideration overall facts of the case, the Court is of the opinion that respondent No. 2-wife will face not only rough weather in Kerala and Karnataka, but she will be having an eminent danger to her life and person.

21. Heard learned Advocate Mr. Majmudar for respondent Nos. 2 and 3. The learned Advocate invited attention of the Court to a decision of the Hon'ble the Apex Court in the matter of Vishwanath Gupta Vs. State of Uttaranchal, The learned Advocate invited attention of the Court to the observations made by the Hon'ble the Apex Court in Para 8, relevant part of which reads as under:

8. ...When there is uncertainty as to in which of several local areas an offence was committed, or where an offence is committed partly in one local area and partly in another, or where an offence is continuing one, and continues to be committed in more local areas than one, or 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. Therefore, Section 178 has to be construed liberally and it has to be inquired into that how the offence has been committed....

The Court is of the opinion that these observations answer the contentions raised

by the learned Advocate for the petitioners so far as the "jurisdiction" aspect is concerned.

22. Heard learned Additional Public Prosecutor Mr. Devang Vyas appearing for respondent No. 1. The learned A.P.P. submitted that if permitted, he would like to render assistance on a legal point. He submitted that the submissions made by the learned Advocate for the petitioners about "no jurisdiction to Gujarat police" stands answered by the Hon"ble the Apex Court in the matter of Satvinder Kaur Vs. State (Govt. of N.C.T. of Delhi) and Another,

The learned A.P.P. submitted that the facts in that case were similar to the facts of the present case. In this regard, he invited attention of the Court to the facts set out in Paragraphs 2 and 3 of the judgment, and thereafter, he invited attention to the observations made in Para 8 of the judgment, which are reproduced hereunder:

8. In our view, the submission made by the learned Counsel for the appellant requires to be accepted. The limited question is whether the High Court was justified in quashing the F.I.R. on the ground that Delhi Police Station did not have territorial jurisdiction to investigate the offence. From the discussion made by the learned Judge, it appears that the learned Judge has considered the provisions applicable for criminal trial. The High Court arrived at the conclusion by appreciating the allegations made by the parties that the S.H.O., Police Station Paschim Vihar, New Delhi was not having territorial jurisdiction to entertain and investigate the F.I.R. lodged by the appellant because the alleged dowry items were entrusted to the respondent at Patiala and that the alleged cause of action for the offence punishable u/s 498A I.P.C. arose at Patiala. In our view, the findings given by the High Court are, on the face of it, illegal and erroneous because:

(1) The S.H.O. has statutory authority u/s 156 of the Criminal Procedure Code to investigate any cognizable case for which an F.I.R. is lodged.

(2) At the stage of investigation, there is no question of interference u/s 482 of the Criminal Procedure Code on the ground that the investigating officer has no territorial jurisdiction.

(3) After Investigation is over, if the Investigating Officer arrives at the conclusion that the cause of action for lodging the F.I.R. has not arisen within his territorial jurisdiction, then he is required to submit a report accordingly u/s 170 of the Criminal Procedure Code and to forward the case to the Magistrate empowered to take cognizance of the offence.

23. Having considered the submissions of the learned Advocate for the petitioners, learned Additional Public Prosecutor and the learned Advocate for respondent Nos. 2 and 3, the Court is of the opinion that the matter is without any merit and the same is required to be dismissed. Hence, the same is dismissed. Rule is discharged. Ad-interim relief granted in terms of Para 25(d) is

vacated.

24. At this juncture, learned Advocate for the petitioners requested that the relief granted be continued for some time so as to enable the petitioners to take recourse to the remedy available to them, approaching the higher forum.

The Court is of the considered opinion that the conduct of the petitioners, the manner in which they have conducted themselves, after the F.I.R. is filed, disentitles them to continue the relief which was granted, and hence, the request is declined.

Order in Misc. Criminal Application No. 9071 of 2009:

As the Misc Criminal Application No. 12361 of 2008 is heard and disposed of, the present application does not survive and the same is disposed of accordingly.