

(2006) 01 DEL CK 0164

In the Delhi High Court

Case No : Writ Petition (Criminal) 13 and 14 of 2006

Ishwar Chandra Jaiswal and Another

APPELLANT

Vs

The State (NCT) Delhi and Others

RESPONDENT

Date of Decision : 13-01-2006

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Criminal Procedure Code, 1973 (CrPC) — Section 177, 482

Citation : (2006) 01 DEL CK 0164

Hon'ble Judges : Ramesh Chand Jain, J

Bench : Single Bench

Advocate : R.P.A. Jaiswal, for the Appellant; Mukta Gupta, for the Respondent

Final Decision : Dismissed

Judgement

R.C. Jain, J.—Through this petition under Articles 226 and 227 of the Constitution of India read with Section 482 Cr.P.C. the petitioners pray for issue of a writ of mandamus and/or certiorari to register a case, if any, on the basis of the allegations contained in the complaint of respondent no.3 in Delhi only. The petition has been made with the averments that the petitioners are related to respondent no.3 as her father-in-law and mother-in-law respectively, their son-Rajiv, having married respondent no.3 at Kanpur. Respondent no.3 initially lodged a complaint at the Crime Against Women Cell, Nanakpura, New Delhi alleging her torture and harassment at the hands of the petitioners for want of inadequate dowry. In the first week of November, 2005 the petitioners received a telephone call from S.O. Manju Singh from Mahila Thana, Kanpur in relation to a complaint lodged by respondent no.3. The petitioners applied for anticipatory bail before a Delhi court but respondent no.2 informed the court that the complaint stands transferred to Mahila Police Station, Kanpur. According to the petitioners, Mahila Police Station, Kanpur has no jurisdiction to entertain the complaint of respondent no.3 because no part of cause of action has taken place in Kanpur and whatever cause of action has been alleged, is only in the territory of Delhi.

2. In support of his contention that the present petition is maintainable, learned counsel for the petitioners has placed reliance upon a Supreme Court decision in the case of Y. Abraham Ajith and Others Vs. Inspector of Police, Chennai and Another, . In the said case the Hon''ble Supreme Court held as under:

While in civil cases, normally the expression 'cause of action' is used, in criminal cases as stated in Section 177 CrPC, reference is to the local jurisdiction where the offence is committed. These variations in etymological expression expression do not really make the position different. The expression 'cause of action' is generally understood to mean a situation or state of facts that entitles a party to maintain an action in a court or a tribunal; a group of operative facts giving rise to one or more bases for sitting; a factual situation that entitles one person to obtain a remedy in court from another person. Thus, it consists of a bundle of facts, which give cause to enforce the legal inquiry for redress in a court of law. 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. 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'.

3. In the opinion of this Court, the petitioners cannot draw any help from the above case. Assuming for moment that the Kanpur Police has no jurisdiction to entertain and investigate the complaint lodged by respondent no.3 at Mahila Police, Kanpur, it will not be appropriate for Delhi court to either quash the said complaint or investigation and the petitioners should approach the court of competent jurisdiction. Therefore, it does not seem to be possible to issue any writ or direction of the kind as sought for by the petitioners.

4. Petition, as such, is dismissed in limini.