

**(2008) 04 P&H CK 0156**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Criminal M. No. 3764-M of 2007**

Jasjit Singh Bakshi and Others

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

**Date of Decision :** 08-04-2008

**Acts Referred:**

Constitution of India, 1950 — Article 142

Criminal Procedure Code, 1973 (CrPC) — Section 173, 177, 177, 178, 178

Penal Code, 1860 (IPC) — Section 323, 406, 498A, 498A, 506

**Citation :** (2008) 3 RCR(Criminal) 170

**Hon'ble Judges :** Vinod K.Sharma, J

**Bench :** Single Bench

**Advocate :** O.P. Goyal, with Ms. Priya Khurana, for the Appellant; Sandeep Moudgil, DAG, Punjab for the Respondent No. 1 and Mr. Vijay Lath, Advocate for the Respondent No. 2, for the Respondent

## Judgement

Vinod K. Sharma, J.—This Criminal Misc. u/s 482 of the Cr.P.C. has been moved for quashing of FIR No. 48 dated 28.4.2006, registered under sections 406/498-A IPC at police station Anandpur Sahib primarily on the ground that the courts at Anandpur Sahib have no jurisdiction to entertain and try the present case.

2. The petitioners are the permanent residents of New Delhi and are residing at House No. C-368, Sarita Vihar, New Delhi. The marriage of petitioner No. 1 was finalized through a matrimonial column with Ms. Mandeep Kaur daughter of Inderjeet Singh resident of House No. 513, Phase-IV, Mohali District Ropar. In response to the said advertisement the bio-data sent by father of Mandeep Kaur shows that she was working as a teacher in a good reputed school at Mohali. The address given by respondent No. 2 was House No. 517, Phase IV, Mohali District Ropar.

3. The marriage between the parties was solemnized on 31.7.2005 at Gurdwara Sri Gurusingh Sabha New Delhi. Respondent No. 2 who is the father of bride had not disclosed to the petitioners that Mandeep Kaur was having a minor daughter

of 4 years from her first marriage. A complaint regarding the behaviour of Mandeep Kaur was made by the petitioners on 23.1.2006 at Police Station Sarita Vihar, New Delhi.

4. In the meantime, Mandeep Kaur is said to have got done pregnancy test which was shown to be positive. Mandeep Kaur filed a case against the petitioners for termination of her pregnancy at Delhi.

5. Husband of Mandeep Kaur has filed a petition for dissolution of marriage in the court of District Judge, Delhi on the allegations of cruelty. After filing of matrimonial case respondent No. 2 i.e. father of the complainant has got registered a case under sections 406/498A IPC on the following allegations :-

"To, The Senior Superintendent of Police Distt. Rupnagar, Subject: Regarding demand of dowry and after marriage bearing and torture for bringing more cash. SLR, it is submitted that I Inderjit Singh s/o Sh. Kartar Singh is a resident of Ward No. 1, Near Civil Hospital, Anandpur, I retired from my service two years ago and am now living on my pension. I got my daughter Mandeep Kaur married to Jasjit Singh S/o Balvir Singh Bakshi r/o H. No. 368, Pocket - C, Sarita Vihar, New Delhi on 31.7.2005 under the Sikh rites. The marriage was fixed through Newspapers ads. Before the marriage, Mandeep's in-laws had made all the inquiries and after satisfaction only the marriage was held. During the course of meeting before marriage it was said that the marriage will take place with 3 clothes of the girl in a Gurudwara in Chandigarh, we only 5 to 7 members from their side shall attend. But after few days my daughter Mandeep's in-laws forced us to hold the marriage at Delhi saying that the expenses shall be shared by them and we were forced to hold the marriage, 40 guests from Mandeep's in-laws side and 35 guests from our side attended the function. The Restaurant charged Rs. 47,000/- as expenses towards this event. Mandeep's Father-in-law did not pay half as his share. In the marriage, gold jewellery weighing 17 Tolas was given to the girl and her in-laws, which includes the jewellery given to the bride and the groom. The total expenditure, I incurred on my daughter's marriage is approx. 4 lakhs, which includes Rs. 31,000/- in cash for the purchase of furniture. Some days after the marriage, my daughter Mandeep Kaur's husband Jasjit Singh; Father-in-law Balbir Singh, Mother-in-law Bhupinder Kaur; Brother-in-law (Dever) Jaswinder Singh; Sister-in-law (Devrani) Kulwinder Kaur and Jasjit Singh's Mama and Mami first stated torturing her for bringing more money and thereafter beating her. All these events were told to me by daughter and I consoled her and told her not to worry, I shall speak to them. But in October, 2005, my daughter was beaten and thrown out by telling that if you want live in our house bring Rs. 3 lakh more from your father as Jasjit Singh has to return this amount which he has taken loan for giving it towards his divorce to his first wife. After October, 2005, I alongwith my near relative Gurmeet Singh and a friend Jaspal Singh Chopra tried to settle the matter, but these people would not agree and struck to their demand. Thereafter a meeting of both the parties was held at Gurudwara Rakabganj Sahib, Delhi on 8.1.2006 and

according to the decision, we handed over Mandeep Kaur to her in-laws and gave the articles worth Rs. 29,000/-, mobile set as per their demand and cash of Rs. 30,000/- was given to Jasjit Singh. But again after few days, Mandeep's in-laws started repeating the same action and on demand my nephew Gurmeet Singh and his wife gave some articles worth Rs. 5000/- and some cash to them on Lohri. Then on 12.2.2006, all the family members of the in-laws left Mandeep Kaur forcibly at one of their relatives. It is, therefore, requested that strict action against the above mentioned members of Mandeep's in-laws family for demanding dowry and Rs. 3 lakh and beating and torturing her be taken, so that justice be meted out to Mandeep my daughter. Thanking you, yours faithfully, Inderjit Singh R/o Ward No. 1, Near Civil Hospital, Anandpur Sahib, Distt. Ropar."

DDR No. 29 dated 28.4.06 at 10.30 P.M."

6. The petitioners have challenged the registration of FIR and subsequent proceedings primarily on the ground that the Courts at Anandpur Sahib have no jurisdiction and the case has been got registered by respondent No. 2 as resident of Anandpur Sahib, though in the statement of Mandeep Kaur recorded by the police she has shown herself to be the resident of Mohali.

7. The contention of Mr. O.P. Goyal, learned senior counsel for the petitioners is that even if the allegations in the FIR are taken on their face value the courts at Anandpur Sahib would have no jurisdiction to entertain and try the allegations u/s 498-A of the Code as the alleged harassment, if any, was caused to Ms. Mandeep Kaur at Delhi.

8. Learned senior counsel for the petitioners in support of his contention that the court at Anandpur Sahib would have no jurisdiction to entertain and try the present FIR placed reliance on the judgment of this court in the case of Amarpreet Kaur v. State of Haryana, 1997 (2) RCR(Cr.) 407 (P&H), wherein this Court has been pleased to lay down as under :-

"16. Similarly, the complaint does not specifically say that the demand for the return of the dowry articles was made at Tohana or that there was an agreement between the parties that the dowry articles, should be returned at Tohana. The dowry articles will normally be with the husband. In the case, the second respondent-complainant and her husband admittedly lived in Chandigarh, whereas the parents-in-law of the complainant lived in the State of Uttar Pradesh. According to the petitioners, the sister-in-law of the complainant - Amarpreet Kaur has also been living only in Uttar Pradesh. Even the complainant has stated in her reply that so long as she and her husband lived at Chandigarh, her sister-in-law Amarpreet Kaur also lived with them. Therefore, it is not as if any of the petitioners lived at Tohana. So we find that while the husband of the complainant is living at Chandigarh, her parents-in-law and sister-in-law are living in Uttar Pradesh. In such circumstances, the demand to return the articles of dowry cannot be said to have been at Tohana. The relevant portion of the allegation in the complainant is as follows :-

"My Istridhan-furniture is with my father-in-law Rajinder Singh and mother-in-law Hamir Kaur which they have kept in their house in U.P. Ornaments are with my Nanad (sister of husband). The cash amount is with my husband. They turned out me in three clothes from the house. On asking by my father they refused to return the dowry articles, and myself and my father came back empty-handed."

These allegations show as if the demand for the return of dowry articles was made at the place of the residence of the petitioners and not at Tohana. Otherwise, the complainant would not have stated that they returned back empty-handed.

17. There is no allegation that the dowry articles are expected to be returned at Tohana. No agreement to that effect is alleged. Simply because the wife lives within the jurisdiction of the Court at Tohana, it cannot be stated that the dowry articles were expected or required to be returned at Tohana.

18. Therefore, taking into consideration all these aspects, I find that the complaint does not show that any part of the cause of action with regard to the offence u/s 406 IPC arose within the territorial limits of the Court at Tohana.

19. So far as cruelty is concerned, the allegations in the complaint read as if the complainant was treated cruelly at Chandigarh only. It has not been stated that the petitioners came to Tohana and ill-treated her. Therefore, it cannot be stated that this alleged offence was committed within the jurisdiction of the Court at Tohana.

20. Therefore, it is evident that the reading of the complaint does not show that the petitioners committed these alleged offences within the jurisdiction of the Court at Tohana and, therefore, the Court at Tohana has no jurisdiction to take cognizance of the FIR. The question is whether on this ground, the FIR pending before the Court at Tohana could be quashed even after the filing of the chargesheet and also the framing to the charges by the Judicial Magistrate Ist Class, Tohana. The Hon''ble Supreme Court in *Minakshi Bala v. Sudhir Kumar*, 1994 (3) RCR (CrI.) 123 held that the High Court is not justified in invoking its inherent power u/s 482 Cr.P.C. to quash the FIR except in rare cases where forensic exigencies and formidable compulsions justify such a course. Therefore, when there are compelling circumstances, this Court can certainly invoke the jurisdiction u/s 482 Cr.P.C. to quash the FIR. I have already found that the Court at Tohana has no jurisdiction to take cognizance of the offences alleged. If the Court has no jurisdiction to take cognizance of the offence, there is no use of allowing the proceedings to continue since the Court at Tohana cannot convict the accused ultimately even if the charges against the accused petitioners are proved. Therefore in these circumstances, I find that there is no use of allowing the FIR to continue as it will be a sheer waste of time and unnecessary expenditure. Therefore, the FIR and consequential proceedings will have to be quashed."

Learned Senior Counsel appearing on behalf of the petitioners also placed reliance on the judgment of this court in the case of Sanjay Khosla v. Smt. Sumina, 1997 (3) RCR (Crl.) 666 which is also to the same effect as the judgment referred to above.

9. Mr. O.P. Goyal, learned senior counsel appearing on behalf of the petitioners thereafter placed reliance on the judgment of Delhi High Court in the case of Mohan Lal and others v. State, 2000 (2) RCR(Crl.) 534, wherein Hon"ble Delhi High Court has been pleased to lay down as under:-

"8. The venue of injury or trial is primarily determined by the averments made in the complaint of charge-sheet. It is not disputed that the marriage between the parties had taken place at Village Jawali, Distt. Kangra, Himachal Pradesh and the parties had also lived together in the matrimonial home there. In the complaint also it is alleged that the acts of cruelty had taken place at the matrimonial home. The complaint does not show that acts of cruelty had taken place at Delhi, nor the report u/s 173 Cr.P.C. disclosed if any cause of action or any act of cruelty had taken place at Delhi. It is thus not the case of the prosecution in the charge-sheet that the husband or any member of the family had actually caused any act of cruelty at Delhi. The learned M.M. In his order dated 23.6.1995 has not dealt with this respect. The learned ASJ has noticed that though the marriage was solemnized at Himachal Pradesh and the wife was also subjected to cruelty there but the offence of cruelty is a continuing offence and as such the part of the cruelty had continued in Delhi.

9. An act will be continuing offence where the act is an offence and by continuing that act from day today a fresh offence is committed by the accused. In the present case the alleged act or acts of cruelty had taken place in (District Kangra) Himachal Pradesh at the matrimonial home of the complainant. These acts of cruelty came to end as soon as the complainant left her matrimonial home and came to Delhi and started living at her parents" house. The alleged acts of cruelty committed at her matrimonial home cannot be said to have continued at Delhi. Section 178 of the Code does not apply to case where the whole offence is committed within one jurisdiction. The learned A., S.J., thus was not right in his view that the cruelty in this case was a continuing offence the impugned order to this extent is not legal and valid and is not sustainable."

10. Reliance has also been placed by the petitioner on the judgment of Hon"ble Supreme Court in the case of Y. Abraham Ajith and Others Vs. Inspector of Police, Chennai and Another, wherein Hon"ble Supreme Court has been pleased to lay down as under :-

"Sections 177 to 186 deal with venue and place of trial. Section 177 reiterates the well-established common law rule referred to in Halsbury's Law of England (Vol. IX para 83) that the proper and ordinary venue for the trial of a crime is the area of jurisdiction in which, on the evidence, the facts occur and which alleged to constitute the crime. There are several exceptions to this general rule and

some of them are, so far as the present case is concerned, indicated in Section 178 of the Code which reads as follows:

"Section 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 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."

"All crime is local, the jurisdiction over the crime belongs to the country where the crime is committed" as observed by Blackstone. A significant word used in Section 177 of the Code is "ordinarily". Use of the word indicates that the provision is a general one and must be read subject to the special provisions contained in the Code. As observed by the Court in *Purushottamdas Dalmia Vs. The State of West Bengal*, *L.N. Mukherjee Vs. The State of Madras*, *Banwari Lal Jhunjunwala and Others Vs. Union of India (UOI)* and *Another*, and *Mohan Baitha and Others Vs. State of Bihar and Another*, exception implied by the word "ordinarily" need not be limited to those specially provided for by the law and exceptions may be provided by law on consideration or may be implied from the provisions of law permitting joint trial of offences by the same Court. No such exception is applicable to the case at hand.

As observed by this Court in *State of Bihar Vs. Deokaran Nenshi and Another*, continuing offence is one which is susceptible of continuance and is distinguishable from the one which is committed once and for all, that it is one of those offences which arises out of the failure to obey or comply with a rule or its requirement and which involves a penalty, liability continues till compliance, that on every occasion such disobedience or non-compliance occurs or recurs, there is the offence committed.

A similar plea relating to continuance of the offence was examined by this Court in *Smt. Sujata Mukherjee Vs. Prashant Kumar Mukherjee*, There all allegations related to commission of alleged offence punishable under sections 498A, 506 and 323 IPC. On the factual background, it was noted that though the dowry demands were made earlier the husband of the complainant went to the place where complainant was residing and had assaulted her. This Court held in that factual background that clause (c) of Section 178 was attracted. But in the present case the factual position is different and the complainant herself left the house of the husband and his relations. There is thereafter not even a whisper of allegations about any demand of dowry or commission of any act constituting an offence much less at Chennai. That being so, the logic of Section 178(c) of the Code relating to continuance of the offences cannot be applied. 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.

Where in civil cases, normally the expression "cause of action" is issued, in criminal cases as stated in Section 177 of the Code, reference is to the local jurisdiction where the offence is committed. The expression "cause of action" is therefore not a stranger to criminal cases.

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 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.

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 of the immediate occasion for the action. In the wider sense, it means the necessary conditions for the maintenance of the proceeding including not only 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, it 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 expression "cause of action" has sometimes been employed to convey the restricted idea of facts or circumstances which constitute either the infringement or the basis of a right and no more. In a wider and more comprehensive sense, it has been used to denote the whole bundle of material facts.

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. (Black's Law Dictionary a "cause of action" is stated to be the entire set of facts that gives rise to an enforceable claim; the phrase comprises every fact, which, if traversed, the plaintiff must prove in order to obtain judgment. In "Words and Phrases" (4th Edn.) the meaning attributed to the phrase "cause of action" in common legal parlance is existence of those facts, which give a party a right to judicial interference on his behalf.

In Halsbury Laws of England (Forth Edition) it has been stated as follows :

"Cause of action" has been defined as meaning simply a factual situation the existence of which entitles one person to obtain from the Court a remedy against another person. The phrase has been held from earliest time to include every fact which is material to be proved to entitle the plaintiff to succeed, and every

fact which a defendant would have a right to traverse. "Cause of action" has also been taken to mean that particular act on the part of the defendant which gives the plaintiff his cause of complaint, or the subject matter of grievance founding the action, not merely the technical cause of action".

When the aforesaid legal principles are applied, to the factual scenario disclosed by the complainant in the complaint petition, the inevitable conclusion is that no part of cause of action arose in Chennai and, therefore, the concerned Magistrate had no jurisdiction to deal with the matter. The proceedings are quashed. The complaint be returned to respondent No. 2 who, if she so chooses, may file the same in the appropriate Court to be dealt with in accordance with law. The appeal is accordingly allowed."

11. On the other hand learned counsel appearing on behalf of the respondents placed reliance on the judgment of this court in the case of Brij Lal v. State of Haryana, 1997 (3) RCR (CrI.) 319; Sita Ram v. State of Haryana, 1997 (2) RCR(CrI.) 602; Sandeep Aggarwal v. Sudesh Gupta, 1997 (2) R.C.R.(CrI.) 322 and Mandeep Singh v. State of Punjab, 1997(2) RCR(CrI.) 154.

12. In all these cases this court has been pleased to lay down that in offence under sections 406 and 498-A IPC courts where the brides reside have the jurisdiction to try the offence.

13. Learned counsel for the respondents also placed reliance on the judgment of Hon"ble Delhi High Court in the case of Pritam Singh v. State of Delhi, 2000 (4) RCR(Criminal) 566 (Delhi); a judgment of Hon"ble Andhra Pradesh in the case of Syed Khaja Mohiuddin v. State of A.P., 2005 (4) RCR(CrI.) 548 and a judgment of Hon"ble Gujarat High Court in the case of Raginiben Gunvantsinh Tank v. Gunvantlal Keshavlal Tank and others 2003 (4) RCR(CrI.) 451 In all these cases it has been held that the courts where the bride resides have the jurisdiction to entertain and try the case.

14. The contention of the learned counsel for the petitioners is that as respondent No. 2 was residing at Anadpur Sahib and Mandeep Kaur has been residing at Anandpur Sahib as well as Mohali, the courts at Anandpur Sahib have jurisdiction.

15. The judgments relied upon by the learned counsel for the respondents cannot be said to be laying down good law in view of the judgment of Hon"ble Supreme Court in the case of Manish Ratan and Others Vs. State of M.P. and Another, which lays down as under :-

"Criminal Procedure Court, 1973 - Sections 178(c) & 177 and 406 - Place of inquiry and trial - Continuing offence - Territorial jurisdiction of court - Appellant 1 married with Respondent 2 and living in matrimonial home at Jabalpur (MP) - Appellant 1's father-in-law lodged a complaint with police at Jabalpur alleging ill-treatment to Respondent 2 and demand of dowry from her by Appellant 1 and his family members (appellants) - Respondent 2 also lodged FIR alleging that her

husband and in-laws ill-treated her so much that she had to leave the matrimonial home and to live with her parents at Datia (MP) - Whether the offence was a continuing one such that CJM at Datia had jurisdiction to take cognizance of the offence - Held, offence cannot be said to be continuing one only because complainant Respondent 2 was forced to leave her matrimonial home and stayed with her parents at Datia - High Court erred in taking the view that Respondent 2 having been forced to leave her matrimonial home on account of torture by her in-laws, it amounted to mental cruelty and harassment which continued even at the place of her father at Datia and therefore, the offence may be inquired into and tried also at Datia court - In view of Section 177, which ordains that offence shall ordinarily be inquired into and tried by a court within whose local jurisdiction it was committed the offence in question must be inquired into and tried by court at Jabalpur and not by court at Datia where no part of cause of action arose - Therefore, interest of justice would be subserved, while setting aside the order of the High Court, if in exercise of Supreme Court's jurisdiction under Article 142 of the Constitution transfer of the criminal case pending in the Court of Chief Judicial Magistrate, Datia to the court of Chief Judicial Magistrate, Jabalpur is directed - Constitution of India Article 142."

16. On consideration of the matter, I find force in the contentions raised by the learned senior counsel appearing on behalf of the petitioners. In the present case for allegations constituting an offence u/s 498-A IPC the court where Istridhan is required to be returned would have the jurisdiction in that event also the court at Anandpur Sahib would have no jurisdiction as Mandeep Kaur is residing at Mohali and not at Anandpur Sahib. Respondent No. 2 could not maintain a complaint with regard to an offence u/s 406 IPC though relatives can maintain a petition u/s 498-A IPC.

17. Filing of FIR at Anandpur Sahib seems to be a mala fide attempt on the part of respondent No. 2 due to his influence at the said place, where he was posted as an officer of the bank.

18. Be that as it may, in view of the law laid down by Hon"ble Supreme Court in the case of Y. Abraham Ajith & Ors. v. Inspector of Police, Chennai & Anr. (supra) the courts at Anandpur Sahib would have no jurisdiction to entertain and try the FIR in question and therefore, this petition deserves to be allowed.

19. Though in the case of Manish Ratan and others v. State of M.P., (supra) Hon"ble Supreme Court ordered the transfer of criminal case to the competent court having jurisdiction but in the present case as prima facie jurisdiction would be with the courts at Delhi, I feel it would be appropriate to follow the judgment in the case of Y. Abraham Ajith & Ors. v. Inspector of Police, Chennai & Anr. (supra) and order that the complaint filed by the complainant be returned to the complainant for presentation in the court of competent jurisdiction.