

(1995) 03 DEL CK 0063

In the Delhi High Court

Case No : Criminal Writ Appeal No. 436 of 1994

Kanta Gupta

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 23-03-1995

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (1995) RLR 426

Hon'ble Judges : M.S.A. Siddiqui, J;A.B. Saharya, J

Bench : Division Bench

Advocate : S.P. Paddey, N.K. Handa and S.K. Vashista, for the Appellant;

Judgement

Arun B. Saharya, J.

(1) The main prayer of the petitioners is that a Writ be issued for quashing Fir No. 396/94 dated 18th of May, 1994 u/Ss. 498A/406/34 Indian Penal Code registered against them at P.S. Mangolpuri.

(2) The two petitioners are Mrs. Kanta Gupta and Mr. Sanjeev Kumar Gupta, the mother-in-law and husband respectively of Ms. Manisha Gupta & Anshu respondent 5 at whose instance the impugned Fir was registered.

(3) The scope of interference in a case of this nature has been clearly delineated by Hon'ble Supreme Court in State of West Bengal and another Vs. Mohammed Khalid and others, The relevant portion, which lays down the parameters, is succinctly stated in para 49,

"...WHERE the allegations made in the first information report or the complaint even if they are taken at their face value and accepted in the entirety do not prima facie constitute any offence or make out a case against the accused, then alone the proceedings could be quashed."

(4) In the Fir respondent 5 has stated that she is residing at Rohini, Delhi; She was married on 11.2.92 to petitioner No. 2, resident of 496, Sector 19, Faridabad.

Her father and relatives gave in dowry lot of valuable articles. Her husband and mother-in-law were not satisfied. They started harassing and later even started beating her to coerce her parents to meet their demands for more and more dowry and finally turned her out of the house on account of failure by her parents to meet their growing demands. This is the sum and substance of the bare facts necessary for our present discussion.

(5) Learned counsel for the petitioners has argued at great length that the impugned Fir should be quashed on the ground that Delhi is not the proper place for trial or investigation or even the place where the Fir could be registered as none of the parties ever resided in Delhi. Secondly, it is contended that the information contained in the impugned Fir does not disclose any cognizable offence. Thirdly, according to the petitioners, different police authorities are carrying on parallel investigation into the matter. The Women Cell of the Delhi Police at Nanakpura was already enquiring into the matter. Simultaneously, the impugned Fir has been registered and investigation has been undertaken by Police Station Mangolpuri also.

(6) On the first day of preliminary hearing of the matter, when notice was issued to the respondents why the petition be not admitted. further investigation in pursuance of the impugned Fir was stayed. That order is continuing till date.

(7) So far as the first ground of challenge is concerned, suffice it to say for the present that the information given by respdt. 5 includes two material aspects, namely, that she is residing at Delhi and secondly that the articles of dowry were given at the time of marriage. Learned counsel for the petitioners, in all fairness, admitted that the marriage was performed at Delhi. Obviously, the various articles of dowry were given on the occasion of the marriage at Delhi. What constitutes residence has been argued at length by learned counsel for the petitioners on the basis of numerous authorities cited at the bar. In view of Section 181(4) Cr. P.C., we would not go into this aspect in the present proceedings. What has been urged would involve adjudication of mixed questions of fact and law The relevant facts have yet to be investigated on the basis of the information recorded in the impugned FIR. Ordinarily, the exercise for collection and verification of such facts and determination of the effect thereof, even for purpose of ascertaining the appropriate place where investigation would continue or where trial may ultimately be held, would not be under-taken by this Court. In the facts and circumstances of the present case, we do not think it necessary to deviate from that whole- some practice.

(8) With regard to the second ground of challenge, on a bare reading of the Fir, prima facie, we are satisfied that if the allegations are accepted, the same would constitute cognizable offences and make out a case against the petitioners fit for investigation.

(9) The plea of so-called parallel investigation appears to be misconceived. Two counter affidavits have been filed on behalf of the State, one by Shri D.D.

Kalshan. 1.0., P.S. Mangolpuri dated 17.9.94 and the other by Shri Mahavir Singh, Inspector, Crime against Women Cell at Nanakpura dated 16.9.94. A combined reading of the two affidavits clearly shows that on receipt of a complaint dated 15.3.95, the Women Cell took up enquiry into the matter and made efforts to bring about a compromise between the estranged parties. That enquiry, however, did not make much headway. When Inspector Mahavir Singh received information about registration of the impugned Fir No. 396/94 dated 18th of May 1994 at P.S. Mangolpuri, he closed that enquiry on 20.5.94. Thus, there is no other enquiry pending. In these circumstances, it cannot be said that the petitioners would be subjected to parallel investigation by two different authorities at the same time in respect of the same subject matter. Petition dismissed.