

(2013) 04 DEL CK 0021
In the Delhi High Court
Case No : CrI. M.C. 1004/2011

K.L. Suri and Others

APPELLANT

Vs

State of Delhi and Another

RESPONDENT

Date of Decision : 02-04-2013

Acts Referred:

Citation : (2013) 199 DLT 341 : (2013) 2 JCC 1221

Hon'ble Judges : G.P. Mittal, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

G.P. Mittal, J.—The Petitioners who are the uncles and cousin of Nitin (husband of Respondent No. 2) seek quashing of FIR No. 24/2011, registered at Police Station (PS) Greater Kailash for the offences punishable under Sections 498-A /406 /34 IPC on the ground that the averments made in the FIR do not constitute an offence against the Petitioners and thus continuing the proceedings on the basis of the earlier said FIR is an abuse of the process of court. Nitin Suri got married to Samridhi (Respondent No. 2) on 24.11.2008 at New Delhi. On 15.12.2008 they proceeded to United Kingdom (UK) and were permanently residing there. According to the Petitioners, on 18.06.2010 while in UK, Samridhi Suri misbehaved with her husband Nitin Suri. When police was called Samridhi made allegations against her husband that he had slapped her. Nitin Suri was arrested and was released on bail on the next day. It is alleged that on 19.06.2010 Nitin moved out of the matrimonial home. On 19.07.2010 Samridhi's parents went to London and started living with Samridhi. A locker in State Bank of India, London which was in the joint name of Nitin Suri and Samridhi was operated by her (Samridhi) and all valuables including jewellery lying in the locker was taken away by Samridhi without Nitin's consent. On 16.09.2010 a Petition for dissolution of marriage was preferred by Nitin against Samridhi. On 12.10.2010 Samridhi vacated the house in UK and removed the articles lying therein. On 01.11.2010 Samridhi filed a written statement before

the English Family Court accepting the jurisdiction of the said Court.

2. According to the Petitioners the English Family Court on 13.01.2011 held that Samridhi misbehaved with Nitin Suri in such a way that it was not reasonably expected of a husband to live with his wife and thus a decree of divorce was ordered to be granted unless sufficient cause was shown within six weeks. Final decree of divorce was thus granted by the English Family Court on 01.03.2011.

3. According to the Petitioners, a false FIR was registered by Samridhi at PS Greater Kailash against Nitin, her in-laws Brij Suri, Poonam Suri, his uncle and aunt (Taya ji and Tai ji) K.L. Suri and Vimla Suri and cousin Puneet. According to the Petitioners K.L. Suri and Vimla Suri are residents of Ludhiana whereas Puneet is a resident of Dubai. There was no question of making any demand of dowry by the Petitioners as they had no financial interest in such demand and were residing separately at a place faraway from Respondent No. 2 and her husband. It is stated that Petitioners have been named in the FIR just to put pressure on them to get a sum of for a valuable consideration of 50 lakhs as settlement money for Respondent No. 2. According to the Petitioners the dispute between the husband and wife was referred to the Delhi High Court Mediation & Conciliation Centre wherein Respondent No. 2 made a demand of Rs. 50 lakhs and jewellery for settlement of the case. Petitioners No. 1 and 2 by an e-mail requested Nitin to settle the matter with Respondent No. 2 and to put an end to the harassment being suffered by the Petitioners. However, the matter could not be settled.

4. It is alleged that the allegations made in the FIR are totally false and absurd and Delhi Court did not possess any territorial jurisdiction to entertain the complaint.

5. It is urged by the learned counsel for the Petitioners that Delhi Court did not possess any jurisdiction to entertain a complaint with regard to the allegations made in the FIR. Sections 177 and 178 of the Code of Criminal Procedure, 1973 (the Code) deals with the place of inquiry and trial, which are extracted hereunder:-

177. Ordinary place of inquiry and trial.

Every offence shall ordinary 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 area has one, or

(d) Where it consists of several acts done in different local areas,

It may be inquired to or tried by a court having jurisdiction over any of such local areas.

6. Thus, where an offence consists of several acts in differing local areas or where the offence is a continuing one and continues to be committed in more than one local area, the Court at any of the places can entertain a complaint or the FIR can be registered. Paras 12 and 14 of the report in *Satvinder Kaur Vs. State (Govt. of N.C.T. of Delhi) and Another*, are extracted hereunder:-

12. A reading of the aforesaid sections would make it clear that Section 177 provides for "ordinary" place of enquiry or trial. Section 178, inter alia, provides for place of enquiry or trial when it is uncertain in which of several local areas an offence was committed or where the offence was committed partly in one local area and partly in another and where it consisted of several acts done in different local areas, it could be enquired into or tried by a court having jurisdiction over any of such local areas. Hence, at the stage of investigation, it cannot be held that the SHO does not have territorial jurisdiction to investigate the crime.

x x x x x x x

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 FIR, 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. [*State of West Bengal and Others Vs. Swapan Kumar Guha and Others*,]. It is also settled by a long course of decisions of this Court that for the purpose of exercising its power u/s 482 CrPC 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. [*Pratibha Rani Vs. Suraj Kumar and Another*, .]

7. Moreover, even if during the course of investigation, the IO finds that the police does not have jurisdiction to continue with the investigation it can forward the same to the officer in charge of the concerned Police Station. Further, the police even after completion of the investigation and even the Court where a report u/s 173 Cr.P.C. is filed may after finding that the offence was not triable by the earlier said Court return the report u/s 173 Cr.P.C. to the officer in charge of the Police Station with a direction to present it to the appropriate Court. (*Y. Abraham Ajith and Others Vs. Inspector of Police, Chennai and Another*, and *Malkiat Singh Vs. State of Punjab*,).

8. The Petition is opposed by Respondent No. 2 by way of filing a written reply. It is stated that the Petitioners and Nitin and his parents constitute a joint Hindu family. Respondent No. 2 was treated with cruelty with regard to demand of

dowry thus, on the basis of the averments made in the FIR, the offence under Sections 498-A /406 IPC is constituted. Since part of the cause of action arose within the territorial jurisdiction of this Court, it cannot be said that the Delhi Court has no jurisdiction to entertain and decide the complaint.

9. Relying on Preeti Gupta and Another Vs. State of Jharkhand and Another, , the learned counsel for the Petitioners urges that the Supreme Court has recognized that in recent years there is a tendency to humiliate the husband's relatives by leveling false allegations against them and that is why the Supreme Court suggested the amendment in the law so that the persons not concerned with the dispute between husband and wife are not unnecessarily harassed.

10. Relying on Ruchi Majoo Vs. Sanjeev Majoo, , the learned counsel for the Petitioners urges that since Nitin and Samridhi (Respondent No. 2) were residents of UK except for few days just after their marriage and occasionally visited India in between, the Petitioners who are uncles and cousin of Respondent No. 2's husband would hardly have any say in Nitin's and Samridhi's affairs or their matrimonial dispute. The learned counsel for the Petitioners refers to Paras 79 to 81 of the report which are extracted hereunder:-

79. The High Court has recapitulated the relevant facts and found that the appellant-complainant is a citizen of USA and had all along lived in USA with her son and husband, away from her in-laws. The High Court has, on the basis of the statement made by the appellant in the Californian court, further found that the alleged scene of occurrence was in USA and that her in-laws had no say in the matrimonial life of the couple.

80. The appellant had further stated that all her jewellery was lying in the couple's house in USA and no part of it was with her in-laws as was subsequently stated to be the position in the FIR lodged by the appellant. No locker number of the bank was disclosed in the FIR nor any date of the opening of locker or the jewellery items lying in it. The particulars of the bank in which the alleged locker was taken by him were also not given in the FIR. The High Court further held that the appellant had not lodged any report although the appellant's parents-in-law were alleged to have stated that the jewellery items were not commensurate with the status of their family as early as in the year 1996. The High Court in that view held that no offence under Sections 498-A and 406 IPC, was made out against her in-laws on the basis of the allegations made by the appellant in the FIR.

81. Having heard the learned counsel for the parties we are of the opinion that in the light of the findings recorded by the High Court the correctness whereof were not disputed before us, the High Court was justified in quashing the FIR filed by the appellant. In fairness to the learned counsel, we must mention that although a feeble attempt was made during the course of hearing to assail the order passed by the High Court, that pursuit was soon given up by him. In that view of the matter we see no reason to interfere with the orders passed by the High

Court in Crl. MC No. 3329 of 2009.

11. Referring to R.S. Raghunath Vs. State of Karnataka and another, the learned counsel for the Petitioners urges that the averments made against the Petitioners are absurd and thus the FIR must be quashed.

12. The Petition is resisted on behalf of Respondent No. 2. The learned counsel for Respondent No. 2 urges that since the Petitioners and Nitin's parents had a joint family the specific allegations made with regard to demand of dowry and harassment meted out to Respondent No. 2 at the hands of the Petitioners cannot be dismissed at this stage. It is urged that Preeti Gupta, Ruchi Majoo and Bhajan Lal are not attracted to the facts of the present case as there are specific allegations against each of the Petitioners which would be decided only during the trial.

13. It is not in dispute that Petitioner No. 1 is aged about 78 years whereas Petitioner No. 2 is aged about 69 years. Both are permanent residents of Ludhiana. Petitioner No. 3 is Nitin's cousin and is permanent resident of Dubai. As per the allegations leveled by Respondent No. 2 which resulted in registration of the instant FIR after 4-5 days of the Respondent No. 2's marriage with Nitin, Nitin asked her to give the gold bangles to his mother. According to her statement made to the police since she had already given the entire jewellery to her mother-in-law (Poonam) she was not inclined to give the gold bangles to her mother-in-law. On this Respondent No. 2 was scolded by Petitioner No. 2. The relevant portion of the FIR is extracted hereunder:-

.... However, the gold jewellery given to me by my mother in marriage, had already been taken by my mother-in-law. At that time, Nitin's Tayaji (uncle) Kewal Suri and Tai (aunt) Vimal Suri, E-87, GK-I, New Delhi-110048 were also present. Nitin's uncle and aunt scolded me on my refusal to give the gold bangles to my mother-in-law Poonam and said that this girl has no manner, she should give her all the jewellery to her mother-in-law (Poonam Suri), it is the custom and her mother-in-law has the right on her all the jewellery items and we have doubled relations, I (Vimal Suri) have two relations with boy i.e. Tai and Mausii. I called Nitin in my room and asked him that please allow me to wear these bangles and I will not give these bangles to you or my mother-in-law. On this, Nitin gave me beatings.....

14. It is further alleged in the FIR that on 15.12.2008 when Respondent No. 2 reached England her husband Nitin gave her beatings and hurled abuses and demanded a costly watch, diamond jewellery and a sum of Rs. 50 lakh for purchasing a house in London. It is alleged that Respondent No. 2's father was informed that if the amount of Rs. 50 lakh is not paid then Samridhi will not be able to live with Nitin in London. It is alleged that Respondent No. 2's father gave a watch worth Rs. 2 lakh but since the demand of Rs. 50 lakh was not met, Nitin misbehaved with her father and threatened to throw Respondent No. 2 out of the house.

15. It is then alleged that on the function of the first wedding anniversary, Respondent No. 2's parents were called to Dubai (at the residence of Petitioner No. 3). Respondent No. 2's parents reached on 16.04.2009. On 17.04.2009 she along with her parents reached the house of Puneet where Petitioners No. 1 and 2 (Kewal Suri and Vimal Suri) were also present. The three Petitioners insulted Respondent No. 2's father as Rs. 50 lakh was not being paid by him as demanded by Nitin Suri. The relevant portion of the FIR is extracted hereunder:-

.... On 17.04.2009 i.e. after only one day, when we reached at the house of Puneet Suri, who is the elder son of Kewal Suri and Vimal Suri and brother of Nitin, immediately on our reaching there, Puneet Suri asked my father in an insulting way that see Thapar Sahib has come with Rs. 50 lacs. I and my father felt insulted very much. At that time, Poonam Suri, Brij Suri (Nitin's father) and Nitin Suri were also present there. Puneet again asked that Thapar Sahib if the money is not given then your son-in-law will not be able to buy a house at London. If you cannot give Rs. 50 lacs then you should keep your daughter with you. My father requested them with folded hands not to harass my daughter for jewellery and cash, I will fulfill your demands very soon. I, my mother and father felt very much insulted at the house of Puneet on not giving cash and jewellery. Nitin used to give me beatings and abused me often as his demands were not fulfilled.....

16. It is then alleged that on 09.02.2010 Respondent No. 2 along with her parents-in-law and husband reached the house of Petitioners No. 1 and 2 at Ludhiana. There again the demand of Rs. 50 lakh and diamond jewellery was raised by Petitioners No. 1 and 2 and they used abusive language against Respondent No. 2's father-in-law. The FIR says as under:-

.....There, Kewal Suri asked me whether your father has given cash Rs. 50 lacs and diamond jewellery to Brij or Poonam Suri. When I refused, Kewal Suri called my father cheater. Kewal Suri took the name of my father loudly in an abusive language and said that he says he is very rich and make big promises but has not given the money and diamond jewellery and called my father a liar and said that he is avoiding to give cash and jewellery but has made your burden on us. On this, Vimal Suri said in a taunting language that his father has nothing, he is bankrupt, therefore, he is not giving cash and jewellery despite one and a half years of marriage, we have married our son in a family of miser, jewellery given in the marriage was of inferior quality, which has caused insult to us in our society. He dragged me from hair and said me to ask my father to fulfil the promise made by him. When I could not bear the torturing and taunting of Nitin and his family members, I made phone call to my father and asked him to arrange the amount of minimum Rs. 20 lacs urgently. On 17.2.2010 again Nitin's parents Brij and Poonam Suri made and demand of Rs. 50 lacs and jewellery. This time, they said that we have married our handsome and intelligent son in a family of miser and they threatened my father that if the cash and jewellery is not arranged immediately, then be ready for its consequences. On 19-20 March,

2010 Puneet Suri also threatened me that if you want to live with Nitin, then you will have to arrange cash Rs. 50 lacs and diamond jewellery and you will have to bear the beatings. I was very much upset with the atrocities of Nitin, therefore on 14.4.2010, I called Metropolitan Police at my home by making phone call.....

17. It is urged by the learned counsel for the Petitioners that all these allegations do not find mention in the written statement to the divorce proceedings undertaken by Nitin in the English Family Court. Yet that by itself will not be a ground for quashing of the FIR. May be that the Petitioners were not the beneficiaries of the dowry given or demanded by Nitin and his parents, yet all these facts have to be gone into by the Trial Court at the time of framing of the charges. The appreciation of evidence cannot be done by the High Court in the proceedings u/s 482 of the Code of Criminal Procedure, 1973 (the Code). Similarly, the probability of the allegations made in the FIR and the defence raised by the persons accused of the offence cannot be gone into proceedings u/s 482 of the Code. The principles laid down in Bhajan Lal, Ruchi Majoo and Preeti Gupta for quashing of the FIR do not apply to the facts of the instant case. The Petition therefore has to be dismissed. Ordered accordingly. Pending Applications stand disposed of.