
(2005) 12 AHC CK 0089

In the Allahabad High Court

Case No : Criminal Miscellaneous Writ Petition No. 12670 of 2005

Rajesh Gupta and Santosh Gupta

APPELLANT

Vs

State of U.P. and Sudama Gupta

RESPONDENT

Date of Decision : 15-12-2005

Acts Referred:

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

Dowry Prohibition Act, 1961 — Section 3, 4

Penal Code, 1860 (IPC) — Section 304B, 323, 342, 498A, 506

Citation : (2006) 2 RCR(Criminal) 641

Hon'ble Judges : Shiv Shanker, J; Amitava Lala, J

Bench : Division Bench

Advocate : R.B. Sahai, for the Appellant; A.G.A., for the Respondent

Final Decision : Dismissed

Judgement

Amitava Lala, J.—The petitioners have filed the present writ petition for quashing the F.I.R. relating to Case Crime No. 11 of 2005, under Sections 304B, 498A, 342, 506 I.P.C. and 3/4 Dowry Prohibition Act, Police Station Khukhundu, District Deoria.

2. Learned Counsel appearing for the petitioners contended before this Court that so far as commission of offence u/s 304B I.P.C. is concerned, the place of occurrence is at Mumbai, therefore, this Court has no jurisdiction in view of the judgement reported in Y. Abraham Ajith and Others Vs. Inspector of Police, Chennai and Another, . We have carefully considered such judgement. In the said judgement, we find that ordinarily the offence will be inquired into and tried by the Court within whose local jurisdiction the crime has been committed. The word "ordinarily" has been clarified in another judgement of the Supreme Court reported in XLII 2001 ACC 860 Mohan Baitha and Ors. v. State of Bihar and Anr. . We have considered the Sections 177 and 178 of Code of Criminal Procedure. We found that Section 177 Cr.P.C. speaks for inquiry and trial ordinarily to be held at the place given under such section. But Section 178 is very categorical in respect

of the factual aspect of the matter herein. Factually, save and except Section 304B I.P.C. other sections are applicable in the place at Deoria, Uttar Pradesh and not at Bombay. Therefore, Section 178 Cr.P.C. will be categorical in this respect. Such section is quoted hereunder;-

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 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.

3. It appears to us that in Smt. Sujata Mukherjee Vs. Prashant Kumar Mukherjee, the same issue was considered. We can get such reference also from the judgement cited by the petitioners i.e. Y. Abraham Ajith and Others Vs. Inspector of Police, Chennai and Another, That apart, a recent trend is that if a part of cause of action arose in two different places, the writ jurisdiction can be available in either of the places even in respect of the criminal cases irrespective of the seat of the Government. The part of cause of action is sufficient for the purpose of invocation of jurisdiction. In Y. Abraham Ajith and Others Vs. Inspector of Police, Chennai and Another, factual aspect of the judgement reported in Smt. Sujata Mukherjee Vs. Prashant Kumar Mukherjee, had been distinguished. The factual distinguishing part is as follows:-

11. A similar plea relating to continuance of the offence was examined by this Court in Smt. Sujata Mukherjee Vs. Prashant Kumar Mukherjee, There the allegations related to commission of alleged offences punishable under Sections 498A, 506 and 323 I.P.C. 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 on 15.4.1997 on account of alleged dowry demands by 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.

4. Therefore, the ratio of the judgement as reported in Y. Abraham Ajith and Others Vs. Inspector of Police, Chennai and Another, is not applicable herein. From Ramesh and Others Vs. State of Tamil Nadu, it appears that in respect of commission of offence between two places the third place i.e. place of residence

can not be the appropriate place for adjudication; meaning thereby two other places, where the commission was partly held, can be the appropriate jurisdiction. We have not called upon for forum selection between two places where the jurisdiction partly arose. Hence, in the instant case, a part of cause of action can be said to be arisen at the aforesaid place in the State.

5. So far as merit is concerned, we do not find any cogent reason to interfere with the submissions of the learned Counsel appearing for the petitioners in support of his case. Gravity of the Case Crime No. 11 of 2005, under Sections 304B, 498A, 342, 506 I.P.C. and 3/4 Dowry Prohibition Act, Police Station Khukhundu, District Deoria does not prescribe any interference.

Therefore, the writ petition stands dismissed.

No order is passed as to costs.

The application for bail shall be decided in accordance with law and only for expeditious disposal of the bail application the ratio of Full Bench judgement of this Court as reported in 2004 All C J 1846 Smt. Amarawati and Anr. v. State of U.P. , can be followed.