
(2010) 03 MP CK 0036
In the Madhya Pradesh High Court

Smt. Payal Chouhan alias Varsha

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 20-03-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 177, 178, 407, 407(1)

Citation : (2010) ILR (MP) 1221 : (2010) 5 MPHT 459 : (2010) 3 MPLJ 708 :
(2010) 4 RCR(Criminal) 530

Hon'ble Judges : Indrani Datta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Indrani Datta, J.

Heard on admission.

Admit.

With the consent of parties, the matter is heard finally at motion stage.

Petitioner has filed this petition u/s 407 of Cr.P.C. for transfer of the Criminal Case No. 1934 of 2007 pending against the respondents No. 2 to 10 from the Court of JMFC, Basoda, Distt. Vidisha to JMFC, Biora, District Raigarh.

The facts in nut-shell giving rise to the filing of this petition are that the petitioner is wife of respondent No. 2 Amit Chouhan. Their marriage was solemnized on 6.5.2006. Respondents No. 3 and 4 are Mother in law and Father in Law of petitioner and respondent No. 5 is Brother in law of petitioner. Other respondents are relatives of respondent No. 2 Amit Chouhan husband of petitioner. After marriage, respondents No. 2 to 10 demanded two lacs in cash and one Maruti Car from petitioner and her father. As petitioner's parents were unable to fulfill demand, hence, respondents started harassing petitioner and ultimately, on 16.3.2007, respondents No. 2 to 4 forcibly left her to Biora District Raigarh in her parental house and thereafter, refused to bring her back in

matrimonial house. Since then, she is residing with her father at Biora, district Raisen.

A report was lodged by petitioner in the Police Station Biora on 28.8.2007 which was registered as Crime No. 0/2007 and thereafter the case was transferred to Police Station, Ganj Basoda and same is registered at Crime No. 731 of 2007 on 7.9.2009 by PS Ganj Basoda. Challan has been filed against respondents No. 2 to 10 in the Court of JMFC, Ganj Basoda district Vidisha and now the case is pending in the court of JMFC Ganj Basoda Distt. Vidisha.

It is contended on behalf of the petitioner that initially, the case was registered as Crime No. 0 of 2007 at PS Biora and thereafter, it is transferred to Ganj Basoda, whereas, the chargesheet should have been filed in the Court of Biora, distt. Raigarh. It is further contended that respondent No. 3 was serving as District Prosecution Officer in Ganj Basoda Court, hence, police authorities are under his influence and respondent No. 2 is also a lawyer practicing at Ganj Basoda and he may also use his influence to affect fair trial of the case. Hence, it is prayed that this case pending in the Court of JMFC, Ganj Basoda Distt. Vidisha be transferred to the JMFC, Biora, District Raigarh.

Learned Panel Lawyer and counsel for the respondents No. 2 to 10 opposed the application and submitted that the demand of dowry was made at Ganj Basoda, District Vidisha, hence the Court at Ganj Basoda has jurisdiction to deal with the matter. Therefore, no ground is made out for transferring the case from the Court of JMFC, Ganj Basoda, Distt. Vidisha to the court of JMFC, Biora, Distt. Raigarh.

Heard rival contentions of the parties and perused the documents brought on record.

Before going into the merits of the case, it would be relevant to go through the provisions of Section 177 and 178 of Cr.P.C. as it deal with the ordinary place of inquiry and trial which read thus :

Section 177: Ordinary Place of Inquiry and Trial:

Every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed.

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.

A bare reading of Section 177 and 178 of Cr.P.C., it is clear that as the alleged demand of dowry is made at Ganj Basoda, hence, Ganj Basoda Court has jurisdiction to try the case, hence, first contention of learned Counsel for petitioner that charge sheet should have been filed in the Court of JMFC, Biora is not acceptable.

Second contention raised by learned Counsel for the petitioner is that respondent No. 3 was serving as Distt. Prosecution Officer Ganj Basoda, District Vidisha, hence, police authorities are under his influence and respondent No. 2 is also practicing at Ganj Basoda and he may also use his influence to affect fair trial of the case, hence, the case is to be transferred from the Court of JMFC, Ganj Basoda district Vidisha to the Court of JMFC, Biora, District Raigarh, this contention also cannot be accepted. For this purpose, a fair reading of Section 407(1) Cr.P.C. would be required which reads as under:

407. Power of high court to transfer cases and appeals : (1) Whenever it is made to appear to the High Court :

(a). that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(b). that an order under this section is required by any provision of this Code, or will tend to the general convenience of the parties or witnesses, or is expedient for the ends of justice"

In the present case, it seems that it is only apprehension of the petitioner that police authorities are under influence of respondent No. 3 but this ground seems to be baseless as charge sheet has already been filed, therefore, there is no question of causing any influence by respondents No. 3 on the police officers. Therefore, it cannot be said that the fair and impartial trial cannot be held in Ganj Basoda Court. Further submission that the respondent No. 2 is practicing as lawyer at Ganj Basoda District Vidisha and he may also use his influence to affect fair trial of the case, has no basis as his place of residence as mentioned in the main petition is at Bhopal. So this contention also seems to be unreasonable.

Considering the facts of the case, no ground is made out for transfer of the Cr. Case No. 1934 of 2007 pending against the respondents No. 2 to 10 from the Court of JMFC, Ganj Basoda, District Vidisha to JMFC, Biora, District Raigarh. Consequently, this petition being bereft of any substance, is hereby dismissed.