
(2007) 09 DEL CK 0026

In the Delhi High Court

Case No : Criminal Revision Petition No. 250 of 2007

Srimati Afsana

APPELLANT

Vs

State of Delhi and Others

RESPONDENT

Date of Decision : 10-09-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 178, 397, 401

Citation : (2007) 97 DRJ 698

Hon'ble Judges : Vidya Bhushan Gupta, J

Bench : Single Bench

Advocate : M.A. Rahman, for the Appellant; O.P. Saxena, for the Respondent

Final Decision : Dismissed

Judgement

V.B. Gupta, J.—Present petition u/s 397 Cr.P.C. read with Section 401 Cr.P.C. has been filed against impugned order dated 9th March, 2007 passed by Sh.Sanjay Sharma, Addl.Session Judge, Delhi.

2. Vide impugned order, the learned Addl.Judge has held that this Court has got no territorial jurisdiction to try the present case and the same lie only with the courts of District Gaziabad, U.P.

3. It has been contended by learned Counsel for the petitioner that the impugned order is illegal and against the law as the same has been passed by the Addl.Sessions Judge without looking into the material on record. The case was fixed for arguments on charge and the court was bound to hear arguments on charge and further the court has ignored the provisions of Section 178 Cr.P.C. The court in Delhi has got jurisdiction to try this case as the demand of dowry was made at the petitioner's father's residence in Delhi also and only the Supreme Court has got the jurisdiction to transfer the case from one State to another State.

4. As per prosecution case, the complainant was married to accused on 6th September, 2001 according to Muslim Rite and customs at village Bhajera Kala,

P.S.Dhaulana, District Ghaziabad, U.P. It is alleged that petitioner was subjected to mental and physical cruelty and her husband and in-laws used to raise demand of Rs.1 lac for purchase of a car. When the matter was listed before the Addl. Sessions Judge, the learned Counsel for the respondent before advancing the arguments on charge on merits challenged the territorial jurisdiction of the court of Addl. Sessions Judge to try the present case and, Therefore, advanced arguments only on that point with reservation and liberty to advance detailed arguments on charge.

5. The relevant portion of impugned order reads as under:

I have considered the rival contentions. There is no iota of doubt that the facts which have been mentioned in the complaint/statement of the complainant, which have formed the basis of the present case clearly show that all the alleged acts of cruelty, harassment or demand of dowry took place at village Bhajera within the jurisdiction of PS Dhaulana, District: Ghaziabad. The alleged incident when the accused had made an attempt to kill the complainant also took place at the said village. The demand for dowry was also made at her matrimonial home in the said village. It is interesting to note that in the present FIR, the place of occurrence has been mentioned in column No.5 of the FIR as village Bhajera, PS Dhaulana, District: Ghaziabad. If that was so, why the case was registered at Delhi, without even remotely, looking into the provisions of Section 178 Cr.P.C.?

6. The learned Addl.Sessions Judge also considered the two supplementary statements of the complainant dated 1st December, 2004 and 23rd February, 2005 and gave a finding that the first statement made by the petitioner is vague and cannot be relied upon and as far as the second supplementary statement is concerned the learned Addl. Sessions Judge found that it was recorded after registration of the case and it is also vague. Finally, the learned Addl. Sessions Judge observed as under:

Applying the similar analogy to the facts of the present case, it becomes very clear that all the acts as alleged by the complainant of demand of dowry, cruelty, attempt to murder etc. took place at village Bhajera, PS Dhaulana, District: Ghaziabad. Thereafter, from the time she came to the house of her parents and till the lodging of the FIR, she had made no allegations against any of the accused regarding any such act as aforesaid. In such circumstances and in view of the above discussion and the case law as cited herein above, I am of the considered opinion that this Court has got no territorial jurisdiction to try the present case and the same lies only with the courts at District: Ghaziabad, U.P.

7. Admittedly, the place of occurrence has been mentioned in the F.I.R. as Village Bhajera Kala, P.S.Dhaulana, District Ghaziabad, U.P. and all the alleged acts of cruelty and harassment or demand of dowry has taken place at village Bhajera Kala within the jurisdiction of P.S.Dhaulana, District Ghaziabad, U.P. and as such I find that there is no infirmity and illegality in the impugned order passed by the learned Addl. Sessions Judge and since the occurrence has taken place in U.P.,

the Delhi courts have no jurisdiction and as such the present petition is not maintainable and same is, hereby, dismissed.