

(1988) 02 AHC CK 0074
In the Allahabad High Court

Vijai Ratan Sharma and Others

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 18-02-1988

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 179, 181, 184, 220, 482
Penal Code, 1860 (IPC) — Section 120B, 406, 498A
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Criminal Procedure Code, 1973 (CrPC) — Section 179, 181, 184, 220, 482
Penal Code, 1860 (IPC) — Section 120B, 406, 498A

Citation : (1988) CriLJ 1581

Hon'ble Judges : Rajeshwar Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rajeshwar Singh, J.—These are two applications u/s 482 Cr.P.C. Both have been filed by husband, father-in-law and mother-in-law of the opposite party 2 Smt. Madhu Bala in connection with the complaints that were filed by Smt. Madhu Bala, opposite party 2 at Ghaziabad. In both these proceedings the applicants want to get rid of the criminal proceedings initiated by the wife Smt. Madhu Bala at Ghaziabad and their only argument is that Courts at Ghaziabad have no jurisdiction to entertain these complaints, because the offence as alleged has been committed outside Ghaziabad. Before proceeding further, it may be pointed out that the question at this stage is not whether there is any truth in the allegations made, but question is whether on the basis of the allegations made in the complaint the Ghaziabad Courts will have jurisdiction. For the purpose of Section 482 Cr.P.C. allegations of complaints are taken to be correct as held in the case, J.P. Sharma Vs. Vinod Kumar Jain and Others, and Pratibha Rani Vs. Suraj Kumar and Another, .

2. First I take-up the Criminal Misc. Application No. 4481 of 1987. In this application the prayer of the applicants is that entire proceedings of Case No. 44

of 1987 pending in the Court of Chief Judicial Magistrate, Ghaziabad including the complaint and the summoning order may be quashed. On the file of this case, I have not been able to find summoning order passed by the Magistrate. However, the, copy of complaint is on the record as Annexure-1. In the affidavit filed on Behalf of the applicants it has been said that the Chief Judicial Magistrate has taken cognizance under Sections 498A and 120B IPC.

3. From the copy of complaint it appears that marriage was performed at Ghaziabad and then the wife was taken outside Ghaziabad where she was mal-treated and i sent back to her father's house. It is alleged therein that the applicants in this application never gave her back her Stridhan which was given at the time of marriage. In the complaint it has been clarified that on account of the demand for dowry and mal-treatment, she fell ill on return to Ghaziabad and her husband even did not come to see. It has further been said that letters containing false accusation were sent to her at Ghaziabad

4. The offence u/s 498A IPC is cruelty to the wife. "Cruelty" has been defined in this section and it says that it is willful conduct which is likely to cause grave injury to the health of the woman and this health may be mental or physical. "Cruelty" also means according to this section harassment by husband of the woman where it is with a view to coerce her relations to meet unlawful demand for property. It is in the complaint that the demand for dowry is being made.

5. When the wife fell ill at Ghaziabad on account of the mental shock created by the treatment of the accused it means that consequences of mal-treatment and cruelty ensued at Ghaziabad. Section 179 Cr.P.C. says that where an act is an offence by reason of anything which has been done and of consequence of which has ensued the offence may be tried by a Court within whose local jurisdiction such thing was done or such consequence ensued. Mal-treatment was meted outside Ghaziabad but it became cruelty on account of the consequence that the woman fell ill on account of the mental shock. She fell ill at Ghaziabad. The woman is being harassed by not being called by her in-laws so that her parents may meet their unlawful demand for dowry. When woman is at Ghaziabad and she is not being called this harassment can also be said to have taken place at Ghaziabad The letters with false allegations are being received at Ghaziabad and this also must be resulting in the harassment of the woman. Rather, this harassment seems to be continued one. It started when demand for dowry was made outside Ghaziabad and it has continued when she is not being called from Ghaziabad and she has been left there in order to get the dowry. So the offence continues to be committed or it may be possible to say that the offence was partly committed outside Ghaziabad when she was mal-treated and it continues to be committed at Ghaziabad where she has been left and is not being called. So it seems that the Courts at Ghaziabad should have jurisdiction to try the offence of cruelty.

6. The second application No. 4817 of 1987 is again virtually a similar complaint. The copy of order passed by the Magistrate shows that the applicants have been

summoned u/s 406 1.P.C. There is clear allegation in the complaint that Stridhan of the complainant, given to the applicants at the time of marriage, has not been returned to her and it has been misappropriated. The property that was given at the time of marriage must have been given in Ghaziabad where the marriage was performed. An offence of misappropriation can be tried at the place where property is received in accordance with Section 181(4) Cr.P.C. So there is no difficulty in trial of this offence at Ghaziabad.

7. The demand of dowry was made from the very beginning. It was also made outside Ghaziabad. The woman was sent to Ghaziabad and she is not being called to harass her in order to get the dowry. This is one series of acts so connected together as to form the same transaction. When it forms one transaction all the offences committed in the course of this transaction can be tried together u/s 220 of the Cr.P.C. where various offences can be tried together u/s 220 Cr.P.C. Then all the offences may be tried by any court, competent to try any of the offences as given u/s 184 Cr.P.C. Thus it seems that it is possible to try all the offences at Ghaziabad.

8. Thus taking a realistic view of the matter it appears that the trial at Ghaziabad does not infringe any provision of law and the Ghaziabad Court has jurisdiction to try the offences in question. The result is that both the petitions are dismissed. Stay is vacated