

State of M.P. and others Vs Dr. (Mrs.) Kavita N. Singh & others

Court: MADHYA PRADESH HIGH COURT

Date of Decision: Jan. 19, 2017

Acts Referred: [Code of Criminal Procedure, 1973](#), [Section 482](#), [Section 177](#), [Section 178](#), [Section 178\(c\)](#) - Saving of inherent powers of High Court - Ordinary place of

Hon'ble Judges: G S Ahluwalia

Bench: Division Bench

Advocate: Ashok Khedkar, Girdhari Singh Chauhan, Rajmani Bansal

Final Decision: Dismissed

Judgement

1. This petition under Section 482 of CrPC has been filed against the order dated 28.05.2015 passed by JMFC, Guna in Criminal Revision

No.1190/2014 by which the application filed by the applicants under Section 177 of CrPC has been rejected.

2. The necessary facts for the disposal of the present petition are that a FIR has been lodged by the respondent No.2 alleging that she was married

to applicant No.3 on 10.07.2011 at Jabalpur. Immediately after the marriage, the applicants started harassing her for want of dowry. They used to

say that the mother and father of the respondent No.2 were in service but still they did not organize the marriage properly. Her husband is also not

behaving with her properly. They also used to say that in case if the respondent No.2 wants to reside with them then she should bring one Honda

City Car. In the month of October, 2012 she has been turned out of her matrimonial house and now she is residing along with her parents. After

the written complaint was signed by the respondent No.2, a line was added mentioning that on 25.02.2014, the father in law of the respondent

No.2 (applicant No.1) came to her parents house at Guna and extended the threat that in case if she do not bring the dowry then they would see

her.

3. It is contended by the counsel for the applicants that if the entire allegations as made in the FIR are considered on its face value then it would be

clear that the cruelty was committed either at Jabalpur or at Pune where her husband was residing and as no offence was committed at Guna,

therefore, the Court at Guna has no territorial jurisdiction to try the offence.

4. The said application was rejected by the Court of ACJM, Guna by order dated 28.05.2015. While rejecting the application, the Court below

considered the last line which was mentioned in the written complaint that on 25.2.2014, the father in law of the respondent No.2 had come to

Guna and had extended the threat that in case if she did not bring the dowry then she will be seen and came to the conclusion that as some part of

cause of action has arisen within the territorial jurisdiction of the Court of Guna and in the light of Section 178 (C) of CrPC, the Court at Guna has

jurisdiction to try the offence. It is further submitted by the counsel for the applicants that it would be visible from the naked eye that after the entire

complaint was written and signed by the complainant/respondent No.2 a line was written below her signature which appears to have been added

subsequently in order to bring the case within the territorial jurisdiction of police station Cantt., Guna and, therefore, such addition at the bottom of

the written complaint was nothing but an afterthought made with the mala fide intention.

5. Per contra, the counsel for the respondent No.2 submitted that in view of the allegations made in the FIR as well as the statements of the

complainant and other witnesses, it is clear that the father-in-law of the complainant had come to Guna and had extended the threat, therefore, a

part of cause of action has arisen at Guna.

6. In order to appreciate the territorial jurisdiction of a Court, it would be relevant to refer to Section 178 of CrPC. Section 178 of CrPC reads as

under:-

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.

7. From a perusal of the FIR as well as statement of the witnesses, it is clear that a threat was extended by the applicant No.1 at Guna, therefore,

the Court at Guna has also territorial jurisdiction and, thus, the police did not commit any jurisdictional error by registering the FIR and investigating

the matter.

8. The contention of the applicants that the last line was inserted by way of afterthought cannot be taken into consideration at this stage.

9. It is next contended by the counsel for the applicants that even if the entire allegation as made in the FIR are taken on their face value then it

would be clear that the major part of cause of action had arisen either at Jabalpur or at Pune, therefore, the Courts at Jabalpur or at Pune will have

jurisdiction to try the offence. To buttress his contention, the counsel for the applicants has relied upon a judgment of Coordinate Bench of this

Court passed in the case of Mohani Mehrotra (Smt.) v. Smt. Shilpi Mehrotra reported in ILR [2012] MP 1099.

10. The Supreme Court in the case of Sunita Kumari Kashyap v. State of Bihar and Ano., reported in (2011) 11 SCC 301 has held as under:-

9. Keeping the above provisions in mind, let us consider the allegations made in the complaint. On 17.10.2007, Sunita Kumari

Kashyap - the appellant herein made a complaint to the Inspector-In-charge, Magadh Medical College Police Station, Gaya. In the

complaint, the appellant, after narrating her marriage with Sanjay Kumar Saini, respondent No.2 herein on 16.04.2000 stated that

what had happened immediately after the marriage at the instance of her husband and his family members" illtreatment, torture and

finally complained that she was taken out of the matrimonial home at Ranchi and sent to her parental Home at Gaya with the threat

that unless she gets her father's house in the name of her husband, she has to stay at her parental house forever. In the said complaint,

she also asserted that her husband pressurized her to get her father's house in his name and when she denied she was beaten by her

husband. It was also asserted that after keeping her entire jewellery and articles, on 24.12.2006, her husband brought her at Gaya

and left her there warning that till his demands are met, she has to stay at Gaya and if she tries to come back without meeting those

demands she will be killed. It was also stated that from that date till the date of complaint, her in-laws never enquired about her. Even

then she called them but they never talked to her.

* * * * *

18. We have already adverted to the details made by the appellant in the complaint. In view of the specific assertion by the appellant-

wife about the ill-treatment and cruelty at the hands of the husband and his relatives at Ranchi and of the fact that because of their

action, she was taken to her parental home at Gaya by her husband with a threat of dire consequences for not fulfilling their demand

of dowry, we hold that in view of Sections 178 and 179 of the Code, the offence in this case was a continuing one having been

committed in more local areas and one of the local areas being Gaya, the learned Magistrate at Gaya has jurisdiction to proceed with

the criminal case instituted therein. In other words, as the offence was a continuing one and the episode at Gaya was only a

consequence of continuing offence of harassment and ill-treatment meted out to the complainant, clause (c) of Section 178 is

attracted. Further, from the allegations in the complaint, it appears to us that it is a continuing offence of ill-treatment and humiliation

meted out to the appellant in the hands of all the accused persons and in such continuing offence, on some occasion all had taken part

and on other occasion one of the accused, namely, the husband had taken part, therefore, undoubtedly clause (c) of Section 178 of

the Code is clearly attracted.

11. Further forcing a married women to leave her matrimonial house and to reside in her parents house because of non-fulfillment of demand of

dowry also amounts to cruelty.

12. A Coordinate bench of this Court in the case of Bhag Singh and Others Vs. Sunita and Others reported in (1995) 4 Crimes 735 has held as

under:-

10. I am of the view that the wife having been left at her parents' place by the accused persons either with the object to meet the

demand of dowry or because of wife's failure to meet the said demand, in both the cases the act of the accused person comes within

the mischief of cruelty and in both the situation harassment continues.

11. Once it is held that the harassment continues at the place of residence of her father where the complainant is residing at the time of

filing of the complaint, I am firmly of the view that the offence is a continuing one and in view of Section 178(c) of the Code of

Criminal Procedure which inter alia provides that where an offence is a continuing one, and continues to be committed in more local

areas than one, it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

12. I am fortified in my view by the judgment of Allahabad High Court in Vijai Ratan Sharma and others. v. State of U.P. and

another, wherein the learned judge has held as follows:-

Rather, this harassment seems to be continued one. It started when demand of 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 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.

13. In this case, it is the specific allegation of the respondent no.2 that for want of a Honda City Car she was harassed and mentally tortured and

further she has been turned out of her matrimonial house. There is also an allegation that the applicant no.1 came to her parents house at Guna and

extended the threat.

14. The offence punishable under Section 498-A of IPC is a continuous offence and, therefore, under the facts and circumstances of the case, it is

clear that as the respondent No.2 has been forced to reside along with her parents at Guna for non-fulfillment of dowry and the applicant No.1

after coming to the house of the respondent No.2 at Guna extended the threat, thus, in the considered view of this Court, a part of cause of action

has arisen within the territorial jurisdiction of police station Cantt, District Guna. The police after concluding the investigation had already filed the

charge-sheet and accordingly it is held that in view of Section 178 of CrPC, the Court at Guna has territorial jurisdiction to try the offence.

15. Accordingly, the petition fails and is hereby dismissed.