

(1996) 07 SC CK 0141

Supreme Court of India

Case No: Criminal Appeal No. ... of 1996 Arising out of SLP (Criminal) No. 3927 of 1995

Bhudeb Chandra Karmakar and
Another

APPELLANT

Vs

State of W.B.

RESPONDENT

Date of Decision: July 30, 1996

Citation: (2001) 9 SCC 203

Hon'ble Judges: G. N. Ray, J; B. L. Hansaria, J

Bench: Division Bench

Final Decision: Disposed Of

Judgement

@JUDGMENTTAG-ORDER

1. Leave granted.

2. Heard learned counsel for the parties. The appellants have challenged the order dated 14-7-1995 passed by the Calcutta High Court in Criminal Revision No. 725 of 1991. By the impugned order, the High Court dismissed the revision application in which the appellants challenged the jurisdiction of the Chief Judicial Magistrate of the Court of Bankura to entertain the complaint filed by the respondent under Section 498-A of the Indian Penal Code. The appellants contended that the alleged cruelty having taken place in the city of Calcutta, the learned Chief Judicial Magistrate, Bankura had no jurisdiction to entertain the complaint. Mr Mukherjee appearing for the appellants has drawn our attention to the complaint made by the respondent which is Annexure V (collectively) in the special leave petition. There is some force in the contention of Mr Mukherjee that although according to the complainant wife, she was given false promises and assurances on several occasions both in Calcutta and in Bankura but beating and other cruelties alleged in the petition of complainant had taken place at Calcutta. It, however, appears to us that it has been specifically stated by the complainant that she is in a pitiable financial position and her brother being poor cannot support her. In such

circumstances, even if the complaint had been lodged in the appropriate court in Calcutta, the respondent could have made application for transfer of the said case to Bankura which is her usual place of residence so that she can effectively pursue the case on the basis of the complaint lodged by her. In the facts of the case, it appears to us that such application for transfer, if made, deserves to be allowed. Taking a pragmatic view of the matter, we feel that the complaint should not be dismissed on the score of jurisdictional impropriety. In the special facts of the case, we direct that it would be treated as if the complaint was presented to the appropriate court in Calcutta and the same has been transferred in the Court of Chief Judicial Magistrate, Bankura. Such direction is given for ends of justice and to avoid dismissal of the complaint filed in Bankura for want of jurisdiction and filing another complaint in Calcutta and then to get the same transferred to Bankura for the reasons indicated. We, however, make it clear that we have not expressed any opinion on the merits of the complaint and the court will be free to decide on the basis of the evidence that may be led. Mr Mukherjee has also submitted that the appellants particularly Appellant 2 Smt. Parul Dey being a lady, should not be dragged in the Court of the learned Chief Judicial Magistrate, Bankura. In any event, she may be permitted to be exempted from personal appearance. It is not necessary for us to decide such claim for personal exemption. If the appellants make an application for such exemption before the Chief Judicial Magistrate, the same will be considered on its merits. With these observations, the appeal is disposed of. Interim order stands vacated.