
foundation of democracy in our country. Interference in the administration of justice with the intention to undermine its prestige glory and causing interference with the orders of the Court unprovoked and with intention and wilful disrespect could hardly be overlooked by the Courts. The power exists to ensure that justice shall be done. The public at large no less than an individual litigant have interest and a very real interest in justice being effectively administered. Unless it is so administered the rights and indeed the liberty of individual will perish. (Salmon L.J. in *Jennison v. Baker* (5).

(21) For the reasons aforesaid I am of the firm view that respondents No. 2 and 3 have intentionally and wilfully violated the orders of the Division Bench dated 12th October, 1994. Consequently I direct these respondents to undergo civil imprisonment for a period of 15 days and to pay a fine of Rs. 1,000 each. The contempt petition is accordingly allowed.

R.N.R.

Before Hon'ble P. K. Jain, J.

JIWNI AND OTHERS,—*Petitioners*

versus

STATE OF HARYANA AND OTHERS,—*Respondents.*

Crl. M. No. 7505-M of 1995

20th September, 1996

Indian Penal Code, 1860—Ss. 323, 406, 498-A & 506—Code of Criminal Procedure, 1973—Ss. 181, 184, 220 & 223—Offence of criminal breach of trust—Place of trial—Offences triable together—Jurisdiction of Court.

Held, that all crime is local and that proper and ordinary venue for the trial of the crime is the area of jurisdiction in which, on evidence, the facts occurred and are alleged to constitute the crime. However, there are certain exceptions to this General Rule. An offence of criminal breach of trust can be inquired into and tried by

a Court within whose local jurisdiction any part of the property which is subject of the offence was received by the accused person.

(Para 10)

Further held, that the question whether the acts are so connected together as to form part of the same transaction has to be decided on the facts of each particular case. The real substantial test for determination whether several offence are so connected together as to form one transaction depends upon whether they are related together in point of purpose or as cause and affect, or as principal and subsidiary acts so as to constitute one continuous action. It is, however, not necessary that every one of these elements should co-exist for a transaction to be regarded as the same. If several acts committed by a person show a unity of purpose or design that would be a strong circumstance to indicate that those acts form part of the same transaction. The alleged acts of cruelty, harassment, beatings and threats are confined with a view of coerce respondent No. 2 to meet an unlawful demand of dowry and on account of her failure to meet such demand. All the four offences alleged to have been committed by the petitioners can be said to form part of the same transaction.

(Paras 12 & 13)

Baldev Singh, Advocate. *for the Petitioner.*

S. N. Gaur, D.A.G. Haryana, *for respondent No. 1.*

Gopi Chand, Advocate, *for respondent No. 2.*

JUDGMENT

P. K. Jain, J.

(1) This petition has been filed under Section 482 of the Code of Criminal Procedure (hereinafter referred to as 'the Code') for quashing the complaint (Annexure P.1), First Information Report (Annexure P.2), report filed under section 173 of the Code (Annexure P.3), order dated 8th November, 1993 (Annexure P.4) passed by the Sub Divisional Judicial Magistrate, Safidon directing the framing of a charge against the petitioners and the charge dated 8th November, 1993 (Annexure P-5) framed consequently against the petitioners for the offences under sections 406/323/498-A/506 I.P.C.

(2) The facts necessary for the disposal of this petition are that on 2nd June, 1992 Smt. Saroj, the respondent No. 2, herein, filed a complaint (Annexure P.1) under sections 323/406/498-A/506/120-B I.P.C. against the petitioners before Sub Divisional Magistrate.

Safidon who in turn by the order of the even date, referred the same to the Police Station Safidon under section 156(3) of the Code. On the basis of the said report, the police registered a case bearing F.I.R. No. 201 dated 5th June, 1993 (Annexure P.2) for the said offences. investigation was taken up, statements of the witnesses were recorded, the petitioners were arrested, and after completing the investigation a charge-sheet under section 173 of the Code dated 6th July, 1993 (Annexure P.3) was filed in the court of Sub Divisional Judicial Magistrate, Safidon. Cognizance was taken, the petitioners were summoned, and by order dated 8th November, 1993 (Annexure P.4), it was held by the Sub Divisional Judicial Magistrate, that a *prima facie* case to frame charge under sections 406/323/498-A/506 I.P.C. had been made out against all the co-petitioners and consequently a charge (Annexure P.5) had been framed on that very day.

(3) Feeling aggrieved, all the four accused have file the present petition alleging that the police and the Sub Divisional Magistrate, Safidon has no jurisdiction to entertain the complaint, to investigate the case and to try the petitioners for the various offences which can be said to have been committed beyond the jurisdiction of the said Police Station and the court. It has been further stated that the allegations regarding handing over articles of dowry are quite vague and there are no specific allegations as to what article was handed over to whom. Similarly it has been alleged that the allegations regarding the other offences are also vague and the trial Court fell in error in framing a charge against the petitioners.

(4) Notice was given to the respondents.

(5) In her reply, filed by respondent No. 2, it is stated that the Police as well as the Sub Divisional Judicial Magistrate at Safidon has the necessary jurisdiction to entertain a complaint, to investigate and try the case. It has been further stated that her marriage with Rajbir petitioner No. 4 was performed at Safidon District Jind and dowry articles were entrusted to all the four petitioners at Safidon. It is further stated that the allegations of entrustment of dowry or those of cruel conduct on the part of the petitioners or that the petitioners had given beatings and threatened her are not vague in any manner and the same have been duly investigated and *prima facie* found to be true. It is also pleaded that the petition is wholly frivolous and beyond the scope of Section 482 of the Code.

(6) A separate, but similar reply has been filed by respondent No. 1 by way of an affidavit sworn by Station House Officer, Mohinder Singh of Police Station Safidon.

(7) I have heard the learned counsel for the parties and have perused the record.

(8) Shri Baldev Singh, Advocate the learned counsel for the petitioners has argued that neither the Sub Divisional Judicial Magistrate nor the police at Safidon had any territorial jurisdiction to entertain and investigate the complaint or to try the alleged offences in-as-much as all the alleged acts of cruelty and maltreatment were committed at Rohtak which was the matrimonial home of respondent No. 2 and her husband petitioner No. 4. The learned counsel has laid great stress on the fact that since the respondent No. 2 is alleged to have been treated with cruelty and demand of dowry articles was made by the petitioners at Rohtak, the case could have been registered and tried only at Rohtak and not at Safidon. It has also been argued by the learned counsel that even in respect of the alleged offence under section 406 I.P.C., the so called refusal to return the dowry articles is stated to have been made at Rohtak. Thus, according to the learned counsel the registration and investigation of the case by the police at Safidon and the trial of the various offences by the Sub Divisional Judicial Magistrate, Safidon based on the charge-sheet submitted by the said Police Station are without jurisdiction.

(9) On the other hand Shri S. N. Gaur, learned Deputy Advocate General Haryana has argued that according to the prosecution, the dowry articles were entrusted to the petitioners at Safidon at the time of the performance of the marriage of respondent No. 2 with petitioner No. 4. It has been further argued by the learned Deputy Advocate General that all the acts of cruelty and maltreatment, though committed at Rohtak, are in the chain of events forming part of the same transaction leading to the commission of an offence under section 406 I.P.C., and, as such, the police at Safidon had the jurisdiction to register and investigate the present case and the Sub Divisional Judicial Magistrate, has the jurisdiction to try the case for the said offences.

(10) I have considered the respective arguments carefully. It cannot be disputed that all crime is local, and that proper and ordinary venue for the trial of the crime is the area of jurisdiction in which, on evidence, the facts occurred and are alleged to constitute the crime. However, there are certain exceptions to this General Rule. One of such exceptions has been recognised by Section 181(4) of the Code which reads as under :—

“Any offence of criminal misappropriation or of criminal breach of trust may be inquired into or tried by a Court

within whose local jurisdiction the offence was committed or any part of the property which is the subject of the offence was received or retained or was required to be returned or accounted for, by the accused person”.

From a bare reading of the above provision, it is evident that an offence of criminal breach of trust can be inquired into and tried by a court within whose local jurisdiction any part of the property which is subject of the offence was received by the accused person. In the case in hand, it is not disputed that marriage between respondent No. 2 and petitioner No. 4 was performed at Safidon. According to the allegations in the First Information Report, the dowry articles were entrusted to all the four petitioners at Safidon. It is not the case of the petitioners that the alleged dowry articles were entrusted to the petitioners or any one of them at Rohtak. Therefore, it cannot be said that the alleged offence under section 406 I.P.C. had not been committed within the jurisdiction of Police Station Safidon or that the court of Sub Divisional Judicial Magistrate, Safidon had no jurisdiction to try the said offence.

(11) It is correct that according to the First Information Report, all acts of cruelty, demand of dowry, beatings and threats given and extended to the complainant had taken place at Rohtak. The question is as to whether the offences under sections 498-A/323/506 I.P.C. can be tried at Safidon. In this connection the provisions of Sections 184, 220 and 223 of the Code are necessary to be noted. Section 184 of the Code reads as under :—

“Place of trial for offences triable together—Where—

- (a) the offences committed by any person are such that he may be charged with and tried at one trial for each such offence by virtue of the provisions of section 219, section 220 or section 221 or
- (b) the offence or offences committed by several persons are such that they may be charged with and tried together by virtue of the provisions of section 223, the offences may be inquired into or tried by any Court competent to inquiry into or try any of the offences.”

Section 220 of the Code, by its sub-section (1) provides as under :—

“If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with and tried at one trial for, every such offence.”

Section 223 *inter alia* provides that the persons accused of the same offence committed in the course of the same transaction may be charged and tried together.

(12) The expression 'same transaction' used in Sections 220 and 223 is an expression which from its very nature is incapable of exact definition. The question whether the acts are so connected together as to form part of the same transaction has to be decided on the facts of each particular case. The real substantial test for determination whether several offences are so connected together as to form one transaction depends upon whether they are related together in point of purpose or as cause and effect, or as principal and subsidiary acts so as to constitute one continuous action. It is, however, not necessary that every one of these elements should co-exist for a transaction to be regarded as the same. If several acts committed by a person show a unity of purpose or design that would be a strong circumstance to indicate that those acts form part of the same transaction.

(13) In the present case, the alleged acts of cruelty, harassment, beatings and threats are confined with a view to coerce respondent No. 2 to meet an unlawful demand of dowry and on account of her failure to meet such demand. Therefore, the offences alleged to have been committed by the petitioners under sections 498-A/323/506 I.P.C. are in the same chain of offences connected with the commission of an offence under section 406 I.P.C. Therefore, all the four offences alleged to have been committed by the petitioners can be said to form part of the same transaction within the meaning of Sections 220 and 223 of the Code. An indential view has been expressed by this court in a number of decisions rendered in *Bhim Singh v. State of Punjab* (1), *Rajesh Kumar and others v. State of Punjab* (2), and *Sultan Singh v. State of Haryana* (3).

(14) The another contention of the learned counsel for the petitioners is that the allegations made in the First Information Report regarding entrustment of various items of dowry as also with regard to the acts of alleged cruelty and beatings are quite vague being without any necessary particulars thereof. After going through the First Information Report (Annexure P.2) and the charge-sheet

(1) 1991 Marriage Law Journal 17.

(2) 1991 Marriage Law Journal 37,

(3) 1996 (2) R.C.R. 290.

(Annexure P.3) filed under section 173 of the Code, I am unable to agree with this contention also. I find that from the allegations made in the First Information Report read with investigation carried out by the police, a *prima facie* case is made out against all the four petitioners for the commission of the various offences alleged against them. It is well settled law that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection and that too in the rarest of rare cases. This court will not be justified in the exercise of its powers under section 482 of the Code in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the First Information Report. *Prima Facie*, I do not find any material to say that the allegations contained in the First Information Report are *mala fide* or frivolous or vexatious.

(15) As a result of the above discussion. I do not find any merit in this petition and the same is hereby dismissed. It is, however, made clear that nothing stated in this order is intended to prejudice the case of the either said and the same will be decided according to law.

S.C.K.

Before Hon'ble Dr. Sarojnei Saksena, J.

BANK OF INDIA,—Petitioner.

versus

M/S DELHI FARIDABAD TEXTILES PVT. LTD. AND
OTHERS,—Respondents.

C.R. No. 534 of 1995.

22nd September, 1995.

Code of Civil Procedure, 1908—Order 21 Rl. 1, Sub Rl. (2) & (3)—Judgment debtor deposits money in Court—Admittedly no notice or intimation was given by judgment debtor to decree holder regarding mode or manner of appropriation Court erred in holding decree holder was duty bound to appropriate amount deposited by judgment debtor towards principal and then interest.

Held, that the judgment debtor while depositing this amount in the Court never gave any notice/intimation to the decree holders to appropriate the amount either towards principal or towards interest.

(Para 6)