A SATVINDER KAUR

v.

STATE (GOVT. OF N.C.T. OF DELHI) AND ANR.

OCTOBER 5, 1999

B [K.T. THOMAS AND M.B. SHAH, JJ.]

Criminal Procedure Code, 1973 :

Sections 156, 170, 177, 178 and 482—Quashing of FIR on the ground C *of lack of territorial jurisdiction to investigate the offence—Allegation of torture and dowry demand against husband and in laws at Patiala—FIR lodged at Delhi—FIR quashed by High Court at the stage of investigation on the ground of territorial jurisdiction—Validity of—Held, High Court not justified in quashing the FIR—S.H.O. has statutory authority to investigate any* D *cognizable offence for which FIR was lodged—After investigation, if he comes to the conclusion that the offence was not committed within his territorial jurisdiction, he can forward the case to the Magistrate—Indian Penal Code, 1860—Sections 406 and 498-A.*

Sec. 482—Investigation into cognizable offence—Interference with on E *the ground of lack of territorial jurisdiction—Scope and extent of.*

Appellant and respondent no.2 married at Delhi and a daughter was born to them. Appellant-wife alleged that she was thrown out of her matrimonial home in Patiala weeks after the birth of the baby. She lodged F **a complaint against her husband and in-laws at Police Station, Kotwali in Patiala. Thereafter, she came to Delhi to stay with her parents. Since respondent no. 2-husband continued to threaten her, she lodged a complaint in the Women's cell at Delhi. Subsequently, an FIR was also lodged under Ss.406 and 498A, IPC for occurrences at Patiala, at a Police Station in Delhi. Respondent no. 2-husband was arrested at Patiala. He filed a** G **petition under Sec. 482 Cr. P.C. for quashing the FIR on the ground that the Investigating Officer had no territorial jurisdiction to investigate the offence. High Court upholding the said plea quashed the FIR. Hence the present appeal.**

H **Allowing the appeal, this Court**

HELD : 1.1. The S.H.O. has statutory authority under Sec. 156 of the Criminal Procedure Code to investigate any cognizable case for which an FIR is lodged. Thus, High Court committed grave error in quashing the FIR on the ground that Investigating Officer has no territorial jurisdiction to investigate the offence. [353-C; 357-C] A

1.2. Section 156 of the Code empowers the Police Officer to investigate any cognizable offence. After investigation, if the Investigating Officer arrives at the conclusion that the cause of action for lodging the FIR has not arisen within his territorial jurisdiction, then he is required to submit a report accordingly under Sec. 170 of the Code and forward the case to the Magistrate empowered to take cognizance of the offence. But this would not mean that in a case which requires investigation, the police officer can refuse to record the FIR and/or investigate it. That apart, Sec. 156(2) contains an embargo that no proceeding of a police officer shall be challenged on the ground that he has no territorial power to investigate. The High Court has completely overlooked the said embargo when it entertained the petition of respondent no. 2 on the ground of want of territorial jurisdiction. [353-E; 357-E-F; 354-E] B C D

State of West Bengal v. *S.N. Basak*, **[1963] 2 SCR 52, relied on.**

1.3. Under Chapter XIII of the Code, there is no absolute prohibition on courts that the offence committed beyond the local territorial jurisdiction cannot be investigated, inquired or tried. Section 178 *inter alia* provides for place of inquiry or trial when it is uncertain in which of several local areas an offence was committed or where the offence was committed partly in one local area and partly in other and where it consisted of several acts done in different local areas; it could be inquired into or tried by a Court having jurisdiction over any of such local areas. Hence, at the stage of investigation, it cannot be held that S.H.O. does not have territorial jurisdiction to investigate the crime. [354-F; 355-D] E F

2. There should be no interference under Sec. 482 of the Code at the stage of investigation, on the ground that there Investigating Officer has no territorial jurisdiction. Further, the legal position is well settled that if an offence is disclosed the Court will not normally interfere with an investigation into the case and will permit investigation into the offence alleged to be completed. If the F.I.R., *prima facie*, discloses the commission of an offence, the Court does not normally stop the investigation, for, to G H

A **do so would be to trench upon the lawful power of the police to investigate into cognizable offences. It is also settled by a long course of decisions of this Court that for the purpose of exercising its power under Section 482, Cr. P.C. to quash an FIR or a complaint, the High Court would have to proceed entirely on the basis of the allegations made in the complaint of the documents accompanying the same per se; it has no jurisdiction to** B **examine the correctness or otherwise of the allegations. Further, while exercising the jurisdiction under Sec. 482 of the Code for quashing and investigation, the court should bear in mind the observation made in** ***O.C. Kuttan's**** **case. [353-D; 356-G; H; 357-A; C; G]**

C **State of Kerala & Ors. Etc.* v. *O.C. Kuttan & Ors. Etc.*, **JT (1999) SC 486, relied on.**

Re: State of West Bengal v. *Swapna Kumar*, **[1982] 1 SCC 561;** *Re: Pratibha Rani* v. *Suraj Kumar and Anr.*, **[1985] 2 SCC 370, referred to.**

D CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1031 of 1999.

From the Judgment and Order dated 13.10.98 of the Delhi High Court in Crl. M. No. 540 of 1993.

E D.N. Goburdhan (SCLSC) for the Appellant.

Ashok Bhan, (Ms. Neera Gupta) for Ms. Sushma Suri for the Respondent no. 1.

F Sudhir Walia and Mahinder Singh Dahiya for the Respondent no. 2.

The Judgment of the Court was delivered by

SHAH, J. Leave granted.

G The appellant-wife contends that she had married to Rajinder Singh-Respondent no. 2 on December 9, 1990. Her parents were resident of Delhi and the marriage was performed at Delhi. A daughter was born on 19th December, 1991. It is her contention that on 19th January, 1992, she was thrown out from the matrimonial home in Patiala with 4 weeks H baby girl and that at that time, she had only wearing apparel.

On the same day, that is, 19th January, 1992 at 3.40 p.m., a complaint bearing no. DD no. 18 was lodged by her at P.S. Kotwali, Patiala making various allegations of torture and dowry demand against her husband and parents-in-law. Thereafter, she came to Delhi to live with her parents. Within that time also, threats by her husband continued. On 30th April, 1992, a complaint was lodged against her husband in the Women Cell, Delhi. Subsequently, on 23rd January, 1993, the impugned FIR no. 34 of 1993 under Sections 406 and 498A I.P.C. for the alleged occurrence dated 9th December, 1990 at Patiala was lodged at Police Station, Paschim Vihar, New Delhi. Rajinder Singh, respondent no. 2 was arrested on 4th February, 1993 at Patiala and certain recoveries were effected and he was brought to Delhi and produced before the Metropolitan magistrate, who remanded him to judicial custody and, thereafter, released him on bail on 9th February, 1993.

Thereafter, the husband (R-2) filed petition in Delhi High Court under Section 482 of the Criminal Procedure Code for quashing the FIR no. 34 of 1993 on the ground that the allegations made in the complaint were false and *mala fide* and no part of the cause of action for investigation or trial of an offence arose within Delhi. On 12th October, 1993, after hearing the Counsel for the parties, the High Court held "since the return of stridhan and accounting thereof is being sought in Delhi, the Courts at Delhi will have the jurisdiction to try the case." Hence, the petition was dismissed. That order was challenged before this Court. By Order dated 4th April, 1995, the order passed by the High Court was set aside and matter was remitted for fresh consideration on the points raised by the respondent in the petition. This Court observed :

> "The High Court dealt with only the territorial jurisdictional question and did not go into the merits of the matter. Ex-facie, it appears there a clear prayer of the appellant in his petition under Section 482 Cr. P.C. is to the effect seeking proceedings to be quashed. The claim apparently is based on the aforesaid memorandum recorded at the Police Station, Patiala. In the face of it, it is claimed that criminal proceedings could not be initiated at Delhi after settling the matter out of Court. As said before, there is no discussion on the merit of the matter in the order of the High Court."

A After remand, the High Court heard learned counsel for the parties and quashed the F.I.R. on the ground that Investigating Officer at Delhi was not having territorial jurisdiction. The Court further clarified that the alleged compromise arrived at between the parties on 19.1.1992 cannot be a ground for quashing the FIR because it would depend upon the evidence which may be led by the parties with regard to the articles returned by the B in-laws. That order is challenged before us in this appeal by special leave.

At the time of hearing of this appeal, learned counsel for the appellant submitted that after rightly holding that the alleged settlement of 19.1.1992 cannot be a ground for quashing the F.I.R., the High Court C materially erred in holding that the alleged cause of action for lodging the F.I.R. had not arisen within the territorial jurisdiction of the Delhi Police Station. He further pointed out that the matter was remanded by this Court for deciding the effect of the alleged settlement and the findings given by the High Court on the question of territorial jurisdiction to investigate the D matter by Delhi Police was not disturbed.

As against this, learned counsel for the Respondent submitted that the alleged offence took place at Patiala and that the articles given at the time of marriage were returned at Patiala on the basis of the F.I.R. dated 19th January 1992 lodged by the appellant at Patiala. A compromise was E arrived at between the parties on the same day and is recorded at the Police Station as DD no. 28. He further submitted that as husband has filed petition under Section 9 of the Hindu Marriage Act for restitution of conjugal rights, as a counter blast appellant filed complaint to the DCP (Women Crime Cell), Delhi on 10th June, 1992 in which she never stated F that she had not received back all dowry articles or her Stridhan. Thereafter, impugned FIR no. 34 dated 23rd January, 1992 was lodged in which she has made material improvements. On the basis of the said FIR, husband and his family members were harassed and arrested. Various other statements are made in the affidavit in reply filed by the respondent-husband and also in rejoinder filed by the appellant.

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In our view, the submission made by the learned counsel for the appellant requires to be accepted. The limited question is whether the High Court was justified in quashing the FIR on the ground that Delhi Police Station did not have territorial jurisdiction to investigate the offence. H From the discussion made by the learned Judge, it appears that learned

Judge has considered the provisions applicable for criminal trial. The High Court arrived at the conclusion by appreciating the allegation made by the parties that the S.H.O., Police Station Paschim Vihar, New Delhi was not having territorial jurisdiction to entertain and investigate the F.I.R. lodged by the appellant because the alleged dowry items were entrusted to the respondent at Patiala and that the alleged cause of action for the offence punishable under Section 498A I.P.C. arose at Patiala. In our view, the findings given by the High Court are, on the face of it, illegal and erroneous because :

(1) The S.H.O. has statutory authority under Section 156 of the Criminal Procedure Code to investigate any cognizable case for which an F.I.R. is lodged.

(2) At the stage of investigation, there is no question of interference under Section 482 of the Criminal Procedure Code on the ground that the Investigating Officer has no territorial jurisdiction.

(3) After investigation is over, if the Investigating Officer arrives at the conclusion that the cause of action for lodging the F.I.R. has not arisen within his territorial jurisdiction, then he is required to submit a report accordingly under Section 170 of the Criminal Procedure Code and to forward the case to the Magistrate empowered to take cognizance of the offence.

This would be clear from the following discussion. Section 156 of the Criminal Procedure Code empowers the Police Officer to investigate any cognizable offence. It reads as under :

"*156. Police Officer's power to investigate cognizable case : -*

(1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIII.

(2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this

A section to investigate.

(3) Any Magistrate empowered under Section 190 may order such an investigation as above-mentioned."

B It is true that territorial jurisdiction also is prescribed under sub-section (1) to the extent that the Officer can investigate any cognizable case which a court having jurisdiction over the local area within the limits of such police station would have power to inquire into or try under the provisions of Chapter XIII. However, sub-section (2) makes the position clear by providing that no proceeding of a police officer in any such case C shall at any stage be called in question on the ground that the case was one which such officer was not empowered to investigate. After investigation is completed, the result of such investigation is required to be submitted as provided under Sections 168, 169 and 170. Section 170 specifically provides that if, upon an investigation, it appears to the Officer in charge of the D police station that there is sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police report and to try the accused or commit for trial. Further, if the Investigating Officer arrives at the conclusion that the crime was not committed within the territorial E jurisdiction of the police station, then F.I.R. can be forwarded to the police station having jurisdiction over the area in which crime is committed. But this would not mean that in a case which requires investigation, the police officer can refuse to record the FIR and/or investigate it.

F Chapter XIII of the Code provides for "Jurisdiction of the Criminal Courts in inquiries and trials". It is to be stated that under the said Chapter there are various provisions which empower the Court for inquiry or trial of a criminal case and that there is no absolute prohibition that the offence committed beyond the local territorial jurisdiction cannot be investigated, inquired or tried. This would be clear by referring to Sections 177 to 188. G For our purpose, it would be suffice to refer only to Sections 177 and 178 which are as under :-

"*177. Ordinary place of inquiry and trial* – Every offence shall ordinarily be inquired into and tried by a Court within whose local H jurisdiction it was committed.

178. Place of inquiry or trial. – (a) When it is uncertain in which of several local areas an offence was committed, or A

(b) where an offence is committed partly in one local area and partly in another, or

(c) where an offence is continuing one, and continues to be committed in more local areas than one, or B

(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." C

A reading of the aforesaid sections would make it clear that Section 177 provides for 'ordinary' place of inquiry or trial. Section 178 *inter alia* provides for place of inquiry or trial when it is uncertain in which of several local areas an offence was committed or where the offence was committed partly in one local area and partly in other and where it consisted of several acts done in different local areas, it could be inquired into or tried by a court having jurisdiction over any of such local areas. Hence, at the stage of investigation, it cannot be held that S.H.O. does not have territorial jurisdiction to investigate the crime. D E

This Court in *the State of West Bengal* v. *S.N. Basak*, [1963] SCR 52, dealt with a similar contention wherein the High Court had held that the statutory powers of investigation given to the police under Chapter XIV were not available in respect of an offence triable under the West Bengal Criminal Law Amendment (Special Courts) Act, 1949 and hence the investigation was without jurisdiction. Reversing the said finding, it was held thus :- F

"The powers of investigation into cognizable offences are contained in Chapter XIV of the Code of Criminal Procedure. Section 154 which is in that Chapter deals with information in cognizable offences and Section 156 with investigation into such offences and under these sections the police has statutory right to investigate into the circumstances of any alleged cognizable offence without authority from a Magistrate and this statutory power of the police to investigate cannot be interfered with by the exercise of power G H

A under Section 439 or under the inherent power of the Court under Section 561A of Criminal Procedure Code. As to the powers of the Judiciary in regard to statutory right of the police to investigate, the Privy Council in *King Emperor* v. *Khwaja Nazir Ahmad*, (1944) L.R. 71 I.A. 203, 212 observed as follows :-

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> "The functions of the judiciary and the police are complementary, not overlapping, and the combination of individual liberty with a due observance of law and order is only to be obtained by leaving each to exercise its own function, always, of course, subject to the right of the Court to intervene in an appropriate case when moved under Section 491 of the Criminal Procedure Code to give directions in the nature of habeas corpus. In such a case as the present, however, the Court's functions begin when a charge is preferred before it, and not until then. It has sometimes been thought that Section 561A has given increased powers to the Court which it did not posses before that Section was enacted. But this is not so, the section gives no new powers, it only provides that those which the Court already inherently possesses shall be preserved and is inserted as their Lordships think, lest it should be considered that the only powers possessed by the Court are those expressly conferred by the Criminal Procedure Code and that no inherent powers had survived the passing of that Act."

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With this interpretation, which has been put on the statutory duties and powers of the police and of the powers of the Court, we are in accord. The High Court was in error therefore in interfering with the powers of the police in investigating into the offence which was alleged in the information sent to the Officer-in-charge of the police station."

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Further, the legal position is well settled that if an offence is disclosed the Court will not normally interfere with an investigation into the case and will permit investigation into the offence alleged to be completed. If the F.I.R., *prima facie,* discloses the commission of an offence, the Court does not normally stop the investigation, for, to do so would be to trench upon

H the lawful power of the police to investigate into cognizable offences. (Re:

State of West Bengal v. *Swapna Kumar*, [1982] 1 SCC 561.) It is also settled by a long course of decision of this Court that for the purpose of exercising its power under Section 482, Cr. P.C. to quash an FIR or a complaint, the High Court would have to proceed entirely on the basis of the allegations made in the complaint or the documents accompanying the same per se; *it has no jurisdiction to examine the correctness or otherwise of the allegations. (Ref. Pratibha Rani* v. *Suraj Kumar and another*, [1985] 2 SCC 370 at 395).

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Hence, in the present case, the High Court committed grave error in accepting the contention of the respondent that investigating officer had no jurisdiction to investigate the matters on the alleged ground that no part of the offence was committed within the territorial jurisdiction of police station at Delhi. The appreciation of the evidence is the function of the Courts when seized of the matter. At the stage of investigation, the material collected by an investigating officer cannot be judicially scrutinized for arriving at a conclusion that police station officer of particular police station would not have territorial jurisdiction. In any case, it has to be stated that in view of Section 178(c) of the Criminal Procedure Code, when it is uncertain in which of the several local areas an offence was committed. or where it consists of several acts done in different local areas, the said offence can be inquired into or tried by a Court having jurisdiction over any of such local areas. Therefore, to say at the stage of investigation that S.H.O., Police Station Paschim Vihar, New Delhi was not having territorial jurisdiction, is on the face of it, illegal and erroneous. That apart, Section 156(2) contains an embargo that no proceeding of a police officer shall be challenged on the ground that he has no territorial power to investigate. The High Court has completely overlooked the said embargo when it entertained the petition of respondent no. 2 on the ground of want of territorial jurisdiction.

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Lastly, it is required to be reiterated that while exercising the jurisdiction under Section 482 of the Criminal Procedure Code of quashing and investigation, the Court should bear in mind what has been observed in the *State of Kerala & Ors. Etc.* v. *O.C. Kuttan & Ors. Etc.*, JT (1999) 1 SC 486 to the following effect :-

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"Having said so, the court gave a note of caution to the effect that the power of quashing the criminal proceedings should be exer-

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A cised very sparingly with circumspection and that too in the rarest of rare cases; that the Court will not be justified in embarking upon an inquiry as to the reliability or genuineness or otherwise of the allegations made in the F.I.R. or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the Court to act according to its whim or caprice. It is
B too well settled that the first information report is only an initiation to move the machinery and to investigate into a cognizable offence and, therefore, while exercising the power and deciding whether the investigation itself should be quashed, utmost care should be taken by the Court and at that stage it is not possible for the Court
C to shift the materials or to weigh the materials and then come to the conclusion one way or the other. In the case of *State of U.P.* v. *O.P. Sharma*, JT (1996) 2 SC 488, a three Judge Bench of this Court indicated that the High Court should be loath to interfere at the threshold to thwart the prosecution exercising its inherent
D power under Section 482 or under Articles 226 and 227 of the Constitution of India, as the case may be and allow the law to take its own course. The same view was reiterated by yet another three Judges bench of this Court in the case of *Rashmi Kumar* v. *Mahesh Kumar Bhada*, JT (1996) 11 SC 175, where this Court sounded a word of caution and stated that such power should be sparingly
E and cautiously exercised only when the Court is of the opinion that otherwise there will be gross miscarriage of justice. The Court had also observed that social stability and order is required to be regulated by proceeding against the offender as it is an offence against the society as a whole".

F In the result, the appeal is allowed. The order passed by the High Court quashing the FIR is set aside. The Investigation Officer is directed to complete the investigation as early as possible.

S.V.K. Appeal allowed.