

## Allahabad High Court

Dheeraj Jain And Ors. vs State Of U.P. And Anr. on 1 November, 2007

Equivalent citations: I (2008) DMC 10

Author: M Mittal

Bench: M Mittal

### JUDGMENT

M.K. Mittal, J.

1. This application has been filed under Section 482, Cr.P.C. for quashing the charge-sheet No. 14/02, State v. Dheeraj Jain and Ors. under Sections 498A and 406, I.P.C. and Sections 3/4, Dowry Prohibition Act in Criminal Case No. 5066/02 pending in the Court of Chief Judicial Magistrate, Saharanpur.

2. Heard the applicant Sri Dheeraj Jain in person, and Mr. G.S. Hajela learned Counsel for the opposite party No. 2 and learned AGA for the State and perused the material on record.

Counter and rejoinder affidavits have been exchanged.

3. The brief facts of the case are that the opposite party No. 2 filed an application under Section 156(3), Cr.P.C. and on that basis learned Magistrate directed for registration of the case and after investigation charge-sheet has been submitted against the accused persons. The case as taken in the First Information Report is that Smt. Shikha was married with Dheeraj Jain according to Hindu rites on 29.6.2001.

Dowry was given at the time of the marriage. After marriage the opposite party No. 2 went to her sasural in Delhi. The informant was asked to bring Rs. 2,50,000 and Maruti car but when she told that her father was not in a capacity to give these things, she was badly beaten and no food was given to her for several days. About two months prior to the filing of the application her maternal uncle Anil Kumar Jain came to know about harassment and came to her sasural and tried to explain the things but the accused were adamant and she was brought to Saharanpur. After some time the informant along with Anil Kumar Jain came to her sasural and Rs. 50,000 were given to applicant No. 1 but still the harassment and demand for additional dowry was not given up and she was again beaten and mentally tortured to the extent that even she decided to commit suicide. She also sent a letter to her maternal uncle. On 25.11.2001 she telephoned her maternal uncle Anil Kumar Jain and told him that she was being continuously harassed and beaten and the accused were adamant for additional dowry. Next day Anil Kumar Jain came to her sasural with some relations and efforts were made to defuse the problem but the accused did not agree and demanded car and Rs. 2,50,000.00 and also told her uncle that if these items were not given there was no need to leave her in her sasural as she would be killed. Thereafter her maternal uncle brought her to Saharanpur.

4. The informant made efforts to lodge the report at police station but it was not written. She gave an application to Superintendent of Police and when no action was taken she filed the application under Section 156(3), Cr.P.C. on 4th December, 2001. First Information Report was registered on 13th December, 2001 after the order was passed by the learned Magistrate on 11th December, 2001.

5. The main contention of the applicant is that the Court at Saharanpur has no jurisdiction to entertain the present case because no cause of action or part of cause of action accrued within the limits of District Saharanpur. According to applicant even if the allegations as made in the First Information Report, although denied by him, are taken to be correct, the incident of alleged harassment and mental torture took place in the sasural of the informant which is situated in Delhi and therefore the Court at Saharanpur has no jurisdiction to entertain the case.

6. In this matter it will be useful to refer Section 177, Cr.P.C. which provides that every offence shall ordinarily be enquired into and tried by a Court within whose local jurisdiction it was committed.

7. The offence under Section 498, I.P.C is not a continuing offence. In this case whatever offence is alleged to have been committed is within the area of Delhi and not in Saharanpur and, therefore, the Court at Saharanpur has no jurisdiction to try this case. In this connection the reference can be made to the cases of [Y. Abraham Ajith and Ors. v. Inspector of Police, Chennai and Anr. and Ramesh and Ors. v. State of Tamil Nadu I \(2005\) CCR 245 \(SC\) : 2005 SCC \(Criminal\)](#)

735. In these cases it has been held that the trial for the offence under Section 498, I.P.C. can take place where the incident is alleged to have been committed.

8. Learned Counsel for the complainant could not show any law to the contrary. However, he contended that in case it is held that the Court at Saharanpur has no jurisdiction, the Court be directed to return the complaint to the complainant. In the case of Y. Abraham Ajith (supra), the complainant had filed a complaint and the Hon'ble Apex Court while holding that the Court at Chennai had no jurisdiction, directed for quashing of the proceedings and the return of the complaint to respondent No. 2 who was permitted to file the same in the appropriate Court if she so chose to do. In the instant case the First Information Report was registered on the basis of the application given by the opposite party No. 2 and after investigation charge-sheet has been submitted. In the circumstances, charge-sheet cannot be returned to the informant to be filed in appropriate Court.

9. The applicant Dheeraj Jain has argued on other points also but it is not necessary for decision of this case because the application under Section 482, Cr.P.C. can be allowed on the ground of jurisdiction alone.

10. The application under Section 482, Cr.P.C. is hereby allowed and the proceedings in Criminal Case No. 5066/02, State v. Dheeraj Jain and Ors. pending in the Court of Chief Judicial Magistrate, Saharanpur, are hereby quashed. However, it shall be open to the opposite party No. 2 to take necessary legal action in the matter in appropriate Forum as may be permissible to her under law.