

CASE NO.:  
Appeal (crl.) 587 of 2008

PETITIONER:  
Bhura Ram and Ors

RESPONDENT:  
State of Rajasthan & Anr

DATE OF JUDGMENT: 02/04/2008

BENCH:  
P.P. NAOLEKAR & V.S. SIRPURKAR

JUDGMENT:  
J U D G M E N T  
NON-REPORTABLE

CRIMINAL APPEAL NO. 587 OF 2008  
[arising out of Special Leave Petition (Crl.) No. 79 of 2006]

P.P. NAOLEKAR, J.

1. Leave granted.
2. The complainant Rajeshwari lodged a complaint on 4.9.2001 before the learned Additional Chief Judicial Magistrate, Sri Ganganagar against the appellants. The complaint under Section 156(3) of the Code of Criminal Procedure was sent to the Police Station, Sadar Sri Ganganagar for investigation on which FIR No. 246 of 2001 was registered against the appellants for offences under Sections 498A, 406 and 147 of the Indian Penal Code (IPC). Challan was filed against the appellants in the Court of learned Additional Chief Judicial Magistrate, Sri Ganga Nagar. The charges were framed against the appellants for offences under Sections 498A and 406 IPC. The appellants made a prayer before the Court that the Court of Additional Chief Judicial Magistrate had no jurisdiction to try the offences as the cause of action accrued within the jurisdiction of the other court. The application was rejected. The Revision Petition before the learned Sessions Judge, Sri Ganganagar was also rejected. The High Court dismissed the S.B. Criminal Miscellaneous Petition preferred by the appellants holding that although the marriage was solemnized at Village Ramsara, Tehsil Abohar, District Ferozpur, and right from the marriage, the complainant and her husband Ravindra Kumar were living in Punjab with her in-laws and her husband had died, and that she is now residing in Sri Ganganagar District in Rajasthan along with her maternal relations, but still offence under Section 498A IPC, being a continuing one, the complaint cannot be dismissed on the ground that it was time barred; and that the offence of cruelty being a continuing offence is still continuing with the local area of Rajasthan, where at present the complainant is living and, therefore, the Additional Chief Judicial Magistrate, Sri Ganganagar had jurisdiction to try the case. The Court has found that all the allegations regarding the offences charged with have been committed at the previous residence of the complainant.
3. It is contended by the learned counsel for the appellants that the question involved is squarely covered by the decision of this Court in Y. Abraham Ajith and Others vs. Inspector of Police, Chennai and Another, (2004) 8 SCC 100, wherein this Court has held that cause of action having arisen within the jurisdiction of the court where the offence was committed, could not be tried by the court where no part of offence was committed.
4. The facts stated in the complaint disclose that the complainant left the place where she was residing with her husband and in-laws and came to the city of Sri Ganganagar, State of Rajasthan and that all the alleged acts as per the complaint had taken place in the State of Punjab. The Court at Rajasthan does not have the jurisdiction to deal with the matter. On the basis of the factual scenario disclosed by the complainant in the complaint, the inevitable conclusion is that no part of cause of action arose in Rajasthan

and, therefore, the Magistrate concerned has no jurisdiction to deal with the matter. As a consequence thereof, the proceedings before the Additional Chief Judicial Magistrate, Sri Ganganagar are quashed. The complaint be returned to the complainant and if she so wishes she may file the same in the appropriate court to be dealt with in accordance with law.

5. The appeal is accordingly allowed.

JUDIS