

***HON'BLE Dr. JUSTICE K.G. SHANKAR**

+ Crl. Petition No.6875 of 2013

% 11.07.2014

Sivangala Thandi Deepak
and 3 others.

...
Petitioners/
A.1 to

A.4
Vs.

\$ The State of A.P.,
rep.by its Public Prosecutor,
High Court of A.P., Hyderabad,
through the S.H.O. Tenali Rural P.S.
and another.

... Respondents

! Counsel for the Petitioners: Sri S.R. Sanku

Counsel for Respondent No.1: Public Prosecutor
Counsel for Respondent No.2:

<Gist:

>Head Note:

? Cases referred:

1. (2005) 3 SCC 507
2. (2007) 1 SCC 262
3. (2004) 8 SCC 100
4. 2008 (2) ALT (Crl.) 327 (AP)
5. (2012) 10 SCC 741

HON'BLE Dr. JUSTICE K.G. SHANKAR

Criminal Petition No.6875 of 2013

Date: 11.07.2014

Between:

Sivangala Thandi Deepak,
and 3 others.

.. Petitioners/
A.1 to A.4

AND

The State of A.P.,
rep. by its Public Prosecutor,
High Court of A.P., Hyderabad,
through the S.H.O. Tenali Rural P.S.
and another.

.. Respondents

HON'BLE Dr. JUSTICE K.G. SHANKAR

Criminal Petition No.6875 of 2013

ORDER:

The petitioners are A.1 to A.4 in C.C.No.4 of 2013 on the file of the II Additional Judicial Magistrate of First Class, Tenali. They seek for the quashment of C.C.No.4 of 2013 on the ground that Tenali Police and Tenali Courts do not have territorial jurisdiction to entertain the controversy between the petitioners on the one side and the second respondent on the other side.

2. A case was instituted against the petitioners arraying them as A.1 to A.4 under Section 498-A IPC and under Sections 3 & 4 of Dowry Prohibition Act. In the second paragraph of the charge sheet, it was recorded

that the offence took place at Hyderabad and at Mumbai and that the complainant/second respondent has been temporarily staying with her parents at Khajipeta, Tenali Mandal. It is stated that the second respondent was given in marriage to the first petitioner at Hyderabad.

It is also the case of the second respondent that she and the first petitioner lived at Mumbai for sometime before the second respondent was driven out from the matrimonial home. From the time the second respondent was necked out from the matrimonial home, she has been staying with her parents at Khajipeta, Tenali Mandal. She lodged a complaint with Tenali Rural Police Station, which was registered as First Information Report (FIR) in Crime No.121 of 2012. After due investigation, police laid charge sheet as C.C.No.4 of 2013 on the file of the II Additional Judicial Magistrate of First Class, Tenali.

3. Sri S.R. Sanku, learned counsel for the petitioners submitted that Tenali Police and Tenali Courts do not have territorial jurisdiction to entertain the dispute and that the charge sheet, consequently, is liable to be quashed.

4. In ***Ramesh v. State of T.N.***^[1], FIR was registered and later charge sheet was filed for the offences under Sections 498-A and 406 IPC and u/s.4 of Dowry Prohibition Act. The major part of the overt acts was allegedly committed in Mumabi and partly in Chennai. No

part of the incident occurred at Tiruchirapalli. When the case was entertained by the Courts at Tiruchirapalli, the husband approached the Supreme Court. It was held that no part of the cause of action had arisen at Tiruchirapalli and that the Courts at Tiruchirapalli did not have territorial jurisdiction to entertain the dispute.

5. In *Manish Ratan v. State of M.P.*^[2], the marriage was solemnized at Jabalpur, Madhya Pradesh. The father of the wife lodged a complaint with police at Jabalpur alleging ill-treatment of his daughter. The wife also lodged an FIR claiming that her husband and in-laws were ill-treating her and that the wife was forced to leave the matrimonial home and to live with her parents at Datia, Madhya Pradesh. Holding that u/s.177 Cr.P.C., offences shall ordinarily be inquired into and tried by a Court within whose local jurisdiction the offences were committed, the attempt of the wife to file the case at Datia was thwarted.

6. In *Y. Abraham Ajith v. Inspector of Police, Chennai*^[3], the Supreme Court referred to Sections 177 & 178 Cr.P.C. and held that offences shall ordinarily be inquired into and tried by a Court within whose local jurisdiction the offence was committed. The Supreme Court also held that there are several exceptions to the general rule and that the case on hand did not fall within the general exceptions.

7. In a decision of the Andhra Pradesh High Court in *Nadimpalli Lakshmana Varma v. State of A.P.*^[4], the Court held that a particular police station did not have territorial jurisdiction and that another police station alone had territorial jurisdiction. The High Court, consequently, quashed the proceedings with a direction to the police which conducted the investigation to transfer the same to the police station having territorial jurisdiction to enable the transferee police station to enquire and lay the charge sheet.

8. All these decisions relied upon by the learned counsel for the petitioners clearly show that when no part of the cause of action has arisen at a particular place, a claim cannot be made at that particular place ostensibly on the ground that the complainant was residing at that place at the time of the filing of the case.

9. In *Geeta Mehrotra v. State of Uttar Pradesh*^[5], the Supreme Court observed that the dispute cannot be resolved through a petition u/s.482 Cr.P.C. when the dispute is regarding the territorial jurisdiction covered by Sections 177 to 181 Cr.P.C. The Supreme Court noticed that such a question of the territorial jurisdiction can be determined by the trial Court itself.

10. From the averments of the charge sheet, it is clear that no part of the cause of action arisen at Tenali. It

is true that the second respondent has been residing at Tenali where the second respondent chose to file the complaint. However, it was noticed in ***Manish Ratan*** (2 supra) that the offence u/s.498-A IPC is not a continuing offence and that Court cannot hold that cause of action has arisen partly at the place where the wife has been residing after she was driven away from the matrimonial home.

11. In the present case, the second respondent was driven out from the matrimonial home from Mumbai. The second respondent went to the house of her parents at Tenali. In view of ***Manish Ratan*** (2 supra), Tenali Courts do not get territorial jurisdiction merely because the second respondent returned to Tenali. However, in view of ***Geeta Mehrotra*** (5 supra), where the Supreme Court held that the question of territorial jurisdiction shall be determined by the trial Court and not in a petition u/s.482 Cr.P.C., I consider that this petition is misconceived.

12. Consequently, this Criminal Petition is dismissed. The petitioners, however, are at liberty to move the trial Court for appropriate relief. The presence of the appearance of the petitioners before the trial Court is dispensed with. However, the trial Court is at liberty to insist upon the presence of the petitioners on any of the date if the trial Court considers if necessary for the petitioners to be present. Miscellaneous Petitions, if any

pending in this Criminal Petition, shall stand closed.

Dr. K.G. Shankar, J.

Date: 11.07.2014

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[\[1\]](#) (2005) 3 SCC 507

[\[2\]](#) (2007) 1 SCC 262

[\[3\]](#) (2004) 8 SCC 100

[\[4\]](#) 2008 (2) ALT (Cr.) 327 (AP)

[\[5\]](#) (2012) 10 SCC 741