

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **CRL. REV. P. NO. 120/2009**

+ **Date of Decision: 29th January, 2013**

MANJU DUTTA **...Petitioner**
! Through: Mr. Abhay Kumar & Mr. U.P. Singh,
Advocates

Versus

\$ **THE STATE & ORS.** **...Respondents**
Through: Mr. M.N. Dudeja, APP for the State
Mr. Jinendra Jain & Mr. D.N. Gaur,
Advocates for R-2 to R-4

CORAM:
* **HON'BLE MR. JUSTICE P.K.BHASIN**

ORDER

P.K.BHASIN, J:

This revision petition has been filed by the petitioner under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973(Cr.P.C.) against the order dated 28th March, 2008 passed by the Court of Metropolitan Magistrate whereby it had ordered return of the charge-sheet in respect of the case registered against respondents no. 2-4 herein as also against petitioner's husband vide FIR No. 611/2000 under Sections 498-A/406/34 IPC to the police so that the same could

be presented to the appropriate Court after coming to the conclusion that the Courts in Delhi had no territorial jurisdiction to try the accused persons.

2. The facts of the case and the submissions made before the learned Magistrate as noticed in the impugned order are as under:-

“It is averred that as per the allegations the complainant got married, with Shri Ranvir Dutta on 29.5.1996 at Faridabad, Haryana. All the alleged cruelty took place at Faridabad. It is averred that the complainant was permanent resident of Hoshiarpur at the time of marriage. The son of the complainant was also born in Faridabad. It is averred that as such no offence is made out at Delhi. It is averred that even otherwise as per the allegations no offence is made out against the accused. It is thus prayed that the FIR be cancelled for lack of territorial jurisdiction and the accused persons be discharged.

I have heard the learned APP for State and the learned counsel for the accused persons and the learned counsel for the complainant and perused the record. The learned APP had argued that this Court would have jurisdiction to try the present case as the demand before CAW Cell was made at Delhi. The learned counsel for the complainant had also argued that Section 406 IPC would be made out where the complainant resides as demand was made from Delhi and there was refusal to return. Further Section 498 A IPC would also be made out as it is connected.

The learned counsel for the accused persons had argued that this Court lacks the jurisdiction to entertain the case. It is argued that there are judgments to the effect that for the offence under Section 406 IPC the material place would be the place of entrustment. It is also argued that in view of the judgments on the point the case is liable to be sent to the Court concerned.

The present case is based on the allegations made by the complainant Ms. Manju Dutta in her complaint dated 30.08.2000 to the CAW Cell against her in laws.

A perusal of the record shows that the marriage took place at Faridabad. At the time of the marriage the house of in laws was at Faridabad. Various incidents of cruelty are referred to but the same took place in the matrimonial house. Further the husband of the complainant had gone to New Zealand.

It is thus seen that all the incidents that are referred to are of Faridabad and none of them took place in Delhi and in fact the complainant came to Delhi thereafter. As such as regards the offence under Section 498A IPC there are no allegations of any offence taking place within the jurisdiction of this Court and was liable to be quashed.

In the present case the only allegations in respect of connection to Delhi are that the complainant was presently at Delhi job and the complaint was filed before CAW Cell, Delhi. There is nothing to show any act which would constitute the offence took place at Delhi. The entrustment if any was at Faridabad and the complaint to CAW Cell cannot by itself be construed to be a demand.

In view of the above discussion this court would not have the territorial jurisdiction to try the present case. At the same time in view of the judgment in Malkiat Singh's case and further in Bimla Rawal & Ors. Vs. State (NCT of Delhi) & Anr., 2008(1) LRC 391 (Delhi) the challan is returned to the IO so that the same can be presented to the appropriate court in compliance with the provision of Section 170 Cr. P.C.

3. Feeling aggrieved by this order the petitioner-wife/complainant approached this Court by filing the present petition. It was contended by her counsel, and as was submitted by the APP for the State before the learned Magistrate also, that Delhi Courts had the jurisdiction to entertain her case since demand for return of the dowry articles and stridhan entrusted with the respondents 2-4 was made at Delhi through the CAW Cell of Delhi Police and these respondents had not returned

the entrusted items. In this regard my attention was drawn to Section 181 (4) Cr.P.C.

4. In my view, there is no merit in the submissions made by the learned counsel for the petitioner. I have gone through the complaint made by the petitioner to the Delhi Police(CAW Cell) which clearly shows that all the acts of cruelty as well as entrustment of dowry articles took place in Faridabad(Haryana) where the respondents 2-4 are living and the petitioner also admittedly was residing there with them and her husband after her marriage which was also solemnised in Faridabad. The complaint also shows that demands for return of the dowry articles was also made in Faridabad. It is not the case of the petitioner that dowry articles were required to be returned to her by the accused persons in Delhi. Therefore, the learned Magistrate was justified in concluding that the Delhi Courts have no jurisdiction to prosecute the accused persons(respondents 2-4).

5. This petition is, therefore, dismissed.

P.K. BHASIN, J

JANUARY 24, 2013