

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CRL.) NO.6269 OF 2009

Kushal Kumar Gupta & Anr.

...

Petitioners

Vs.

Mala Gupta

...

Respondent

J U D G M E N T

JUDGMENT

ALTAMAS KABIR, J.

1. This Special Leave Petition is directed against the judgment and order dated 28th July, 2009, passed by the

learned Single Judge of the Punjab and Haryana High Court dismissing the petitioners' application under Section 482 of the Criminal Procedure Code, 1973, hereinafter referred to as "Cr.P.C.", for quashing of order dated 2nd July, 2009, passed by the learned Additional Sessions Judge, Patiala, as also the summoning order passed by the learned Judicial Magistrate, 1st Class, Patiala, on 5th August, 2008.

2. The respondent herein, Mala Gupta, filed a complaint against the petitioners, who are her father and mother-in-law, under Sections 406 and 498A of the Indian Penal Code, hereinafter referred to as "I.P.C.". On being satisfied that a *prima facie* case to go to trial had been made out, the learned Magistrate issued process against the petitioners. Aggrieved thereby, the petitioners filed a revision petition against the summoning order, which was dismissed on 2nd July, 2009. Thereafter, the petitioners

filed the application under Section 482 Cr.P.C. for quashing of the proceedings arising out of the complaint under Sections 406 and 498A I.P.C.

3. The main ground taken in the said petition was that the Court at Patiala had no jurisdiction to entertain the complaint since no part of the cause of action for the same had arisen within its jurisdiction. On a construction of the provisions of Section 181(4) Cr.P.C., both the learned Additional Sessions Judge, Patiala, and the High Court, dismissed the Criminal Revision Application No.48 of 2008, and the Crl. Misc. Case No.19996-M of 2009. As indicated hereinabove, the High Court also dismissed the petitioners' application under Section 482 Cr.P.C. by the impugned order dated 28th July, 2009.

4. The only point for consideration in this case is whether the learned Magistrate at Patiala had jurisdiction to entertain the complaint and to issue summons on the basis thereof.

5. Learned counsel for the petitioners contended that both the learned Additional Sessions Judge, Patiala, and the High Court misconstrued the provisions of Section 181(4) Cr.P.C. in holding that the complaint was maintainable, as no part of the cause of action had arisen within the jurisdiction of the Courts at Patiala. It was urged that the respondent/complainant had received back all her articles and personal effects and nothing remained to be handed over to the complainant at Patiala so as to give rise to a cause of action within the jurisdiction of the Courts at Patiala. Learned counsel urged that the complaint was wholly motivated and without basis and was liable to be quashed.

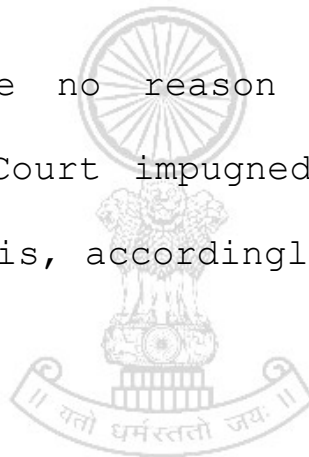
6. On the other hand, learned counsel for the respondent, Mala Gupta, submitted that the complaint itself contains a categorical statement that the dowry articles were to be returned at Patiala Court, thus attracting the provisions of Section 181(4) Cr.P.C. It was also submitted that at the stage of taking cognizance, the Magistrate was only required to see whether there was any material in the complaint to proceed against the accused and the learned Magistrate had rightly observed that documents produced on behalf of the accused would be considered at the time of trial.

7. In the ultimate analysis, what emerges from the submissions of the parties is that during the trial the petitioners will have to disprove the complainant's case that part of the cause of action arose in Patiala where the dowry articles were to be returned to the complainant. As

it stands, the complaint does indicate that a part of the cause of action arose in Patiala, thus attracting the provisions of Section 181(4) Cr.P.C. The High Court has quite rightly observed that on a bare perusal of the complaint, the Patiala Court has jurisdiction to entertain the complaint. The decisions cited on behalf of the petitioners are not of much help to the petitioners' case. In Harmanpreet Singh Ahluwalia Vs. State of Punjab and Others, [(2009) 7 SCC 712], this Court held that when on investigation it was found that no case of cheating or criminal breach of trust had been made out against the accused, the High Court should have exercised its jurisdiction under Section 482 Cr.P.C. and quashed the proceedings. In the said case the issue was whether a *prima facie* case had been made out against the accused. The situation in this case is different, since the complaint

itself makes out a *prima facie* case to go to trial. The petitioners' case does not fall within any of the circumstances indicated by this Court in paragraph 102 of its judgment in State of Haryana Vs. Bhajan Lal, [(1992) Supp.1 SCC 335]. The other judgments cited are on the same lines and do not require our attention separately.

8. We, therefore, see no reason to interfere with the judgment of the High Court impugned in this Special Leave Petition, and the same is, accordingly, dismissed.



.....J.
(ALTAMAS KABIR)

.....J.
(SURINDER SINGH NIJJAR)

NEW DELHI
DATED: 07.09.2011