

CASE NO.:
Appeal (crl.) 437 of 2008

PETITIONER:
Tanu Sharma

RESPONDENT:
State of Madhya Pradesh & Ors.

DATE OF JUDGMENT: 04/03/2008

BENCH:
C.K. THAKKER & D.K. JAIN

JUDGMENT:
JUDGMENT

O R D E R
(Arising out of SLP(CRL) No. 238/2006)

Delay condoned.

Leave granted.

We have heard learned counsel for the parties.

In the present appeal, an order passed by the High Court of Madhya Pradesh at Jabalpur dated March 7, 2005 in Miscellaneous Criminal P. No.1567 of 2005, is challenged. By the impugned order the High Court held that the Court of Chief Judicial Magistrate Chhatarpur had no territorial jurisdiction since the cause of action can be said to have arisen within the territorial jurisdiction of Bhopal.

The following direction was issued by the Court;

"For the reasons stated hereinabove, I am of the considered view that the C.J.M. Chhatarpur is not having any territorial jurisdiction to try the case. The respondents are hereby directed to file the charge sheet in the competent court at Bhopal which shall try the case. However, it is made clear that in case any kind of harassment or any torture or any threat is given either to the complainant or her family members or any witness or they are put to fear, complainant shall be free to move application for transfer making out a case of transfer, which shall be decided in accordance with law."

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Though several arguments have been advanced by the learned counsel for the appellant, the matter can be disposed of only on one ground. It was contended that initially a complaint was filed by the appellant-wife against the contesting respondents in respect of the commission of offence punishable under Section 498A read with section 34 IPC. It was stated that though the High Court had passed the above order, no notice was issued, no opportunity of being heard was afforded to the appellant herein and the order was passed without hearing her. The order is, therefore, violative of the principle of natural justice.

The learned counsel for the contesting respondents stated that it was the appellant's case that the First Information Report (FIR) was lodged and the State was heard.

On the facts and in the circumstances of the case, in our opinion, the High Court ought to have extended opportunity of hearing to the appellant herein when the case was sought to be transferred from one place to another. On that ground alone and without observing anything on the merits of the case, the appeal deserves to be allowed. The order passed by the High Court is set aside and the matter is remitted back to the High Court for fresh disposal in accordance with law and an appropriate order will be passed by the High Court after hearing all the parties, including the appellant herein. It was stated that in pursuance of the above order passed by the High Court the case papers were

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sent to the competent court at Bhopal. It would be appropriate if we direct the said Court not to proceed with the matter till the High Court decides the case.

The appeal is, accordingly, allowed. We may, however, clarify that the High Court will decide the case without being influenced by any observations made by this Court in the order.