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

Judgment delivered on: 11th August, 2015

+ CRL.M.C. 425/2015

ANEES AHMAD AND ORS Petitioners
Represented by: Mr. R.G. Srivastava,
Adv.

versus

STATE GOVT OF NCT DELHI AND ORS Respondents
Represented by: Mr. Ravi Nayak, APP for
State with SI Manish Choudhary,
PS-Welcome Colony.
Mr. Mohd. Zahid and Mr. Hari Shankar,
Advs. for R4.

**CORAM:
HON'BLE MR. JUSTICE SURESH KAIT**

SURESH KAIT, J. (Oral)

+ **CRL.M.C. 425/2015**

1. Vide the present petition; petitioners seek directions thereby quashing of FIR No. 645 dated 13.11.2014 registered at PS-Welcome Colony, Delhi for the offences punishable under Sections 498A/406/34 IPC against the petitioners.

2. Ld. Counsel appearing on behalf of the petitioners submits that the alleged offence were committed upon the complainant at Meerut and Ghaziabad City and merely because the complainant

left the matrimonial home and started living in Delhi will not confer any jurisdiction upon the Delhi Police to lodge FIR against the petitioners. Therefore, the FIR mentioned above may be quashed against the petitioners.

3. It is submitted by Id. APP and counsel for the complainant that on 26.05.2014, there was an assault upon the complainant by the petitioners. To this effect, DD No. 18-A was registered at PS-Welcome Colony. However, to this effect no case was ever registered against the petitioners. Since the injuries caused by the petitioner upon the complainant at Delhi, therefore, Delhi Police has jurisdiction and accordingly registered the case.

4. I note that the aforesaid FIR is in detail and comprises of 3½ pages. However, nowhere in the said FIR any offence committed at Delhi has been mentioned. Accordingly, finding no jurisdiction on the complaint made by the complainant, Delhi Police transferred the same to Ghaziabad. Thereafter, SSP, Ghaziabad transferred the said complaint to Delhi for the reason that the complainant was staying at Delhi. Accordingly, on 13.11.2014, the aforesaid FIR was lodged at Delhi.

5. It is not disputed that in the FIR the complainant nowhere stated about any offence committed by the petitioners at Delhi.

6. I note the present FIR is of 13.11.2014, whereas the alleged MLC is of dated 26.05.2014. It is true that the complaint for the offence punishable under Sections 498A/406 was made earlier and

in the said complaint there is no iota of the allegations against the petitioners for any offence committed at Delhi. Therefore, by registering a case at Delhi, the MLC was not the base and the case was registered only on transfer from SSP, Ghaziabad. It is also not in dispute that any action for the assault committed by the petitioners upon the complainant on 26.05.2014 was not taken.

7. In the case of ***Amrendu Jyoti & Ors. v. State of Chattisgarh & Ors. 2014 (9) SCALE 162*** Hon'ble Supreme Court held as under:

“7. The core question thus is whether the allegations made in the F.I.R. constitute a continuing offence. We find from the F.I.R. that all the incidents alleged by the complainant in respect of the alleged cruelty are said to have occurred at Delhi. The cruel and humiliating words spoken to the 2nd Respondent/wife by her husband, elder brother-in-law and elder sister-in-law for bringing less dowry are said to have been uttered at Delhi. Allegedly, arbitrary demands of lakhs of rupees in dowry have been made in Delhi. The incident of beating and dragging the Respondent No. 2 and abusing her in filthy language also is said to have taken place at Delhi. Suffice it to say that all overt acts, which are said to have constituted cruelty have allegedly taken place at Delhi. The allegations as to what has happened at Ambikapur are as follows:

No purposeful information has been received from the in-laws of Kiran even on contacting on telephone till today. They have been threatened and abused and two years have been elapsed and the in-laws have not shown any interest to

call her to her matrimonial home and since then Kiran is making her both ends meet in her parental home. To get rid of the ill-treatment and harassment of the in-laws of Kiran, the complainant is praying for registration of an FIR and request for immediate legal action so that Kiran may get appropriate justice.

8. We find that the offence of cruelty cannot be said to be a continuing one as contemplated by Sections 178 and 179 of the Code. We do not agree with the High Court that in this case the mental cruelty inflicted upon the Respondent No. 2 "continued unabated" on account of no effort having been made by the Appellants to take her back to her matrimonial home, and the threats given by the Appellants over the telephone. It might be noted incidentally that the High Court does not make reference to any particular piece of evidence regarding the threats said to have been given by the Appellants over the telephone. Thus, going by the complaint, we are of the view that it cannot be held that the Court at Ambikapur has jurisdiction to try the offence since the appropriate Court at Delhi would have jurisdiction to try the said offence. Accordingly, the appeal is allowed.

9. However, we consider it appropriate, in the interest of justice to permit the Court at Ambikapur to proceed with the trial of Criminal Case arising out of F.I.R. No. 798 of 2005 dated 31.12.2005, in exercise of powers conferred on this Court by Article 142 of the Constitution of India."

8. It is admitted that the place of occurrence mentioned in column No.5 of FIR is Meerut. It is also admitted that the complainant never lived with the petitioners at Delhi.

9. Keeping in view the settled position of law and the allegations made by the complainant, I am considered opinion that no offence has ever committed at Delhi. Therefore, Delhi Police has no jurisdiction to investigate the case in FIR in question.

10. However, in the interest of justice, I direct the State to transfer the FIR to PS Lisadi Gate, Meerut(UP) for further proceedings against the petitioners.

11. In view of above, the instant petition is allowed.

Crl. M.C. 1678/2015

Dismissed as infructuous.

SURESH KAIT, J

AUGUST 11, 2015

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