

IN THE HIGH COURT OF DELHI AT NEW DELHI

SUBJECT : INDIAN PENAL CODE

W.P.(CrI.) No. 1541/2007

Reserved on: 30.11.2007

Date of Decision: 03.1.2008

Bimla Rawal and Ors.Petitioners

Through : Mr. N.Hariharan,Advocate

versus

State (NCT Of Delhi) and Anr. Respondents

Through : Ms. Rajdipa Behura,Advocate

with Mr. Vishal Garg, Advocate for State

Mr. H.M.Sethi, Advocate for R-2

JUSTICE SHIV NARAYAN DHINGRA

JUDGMENT

This Writ Petition under Article 226 of the Constitution of India has been filed for quashing of FIR No. 598/2007 PS Rajouri Garden, Delhi. This FIR was got registered at Delhi by complainant Smt. Chanderkanta @ Pammi Rawal, widow of Late Mr. Ajay Rawal after more than 02 years of death of her husband against her in-laws living at Mumbai. Her husband died on 18th February, 2005 at Mumbai. A reading of FIR shows that marriage between the parties had taken place at Mumbai. Parties lived together at Mumbai. All her in-laws were living at Mumbai. Her allegations of cruelties and not giving her jewellery and other assets etc. are in respect of Mumbai. No part of alleged crime had taken place in Delhi. The only averment made in her complaint about Delhi is that she and her husband came to Delhi in June, 2005 (it seems that the year is wrongly typed as 2005, it should be 2004 or prior to that) and both stayed with her father for three months and her husband tried to keep her comfortable and happy. During this period her husband also tried his hand on some business in Delhi but could not succeed. Thereafter, relatives of her husband visited them at Delhi and threatened to break her matrimonial home and despite her resistance took away the complainant's husband with them. No other instance at Delhi is mentioned. Then she received a call on 18th February, 2005 about death of her husband.

2. This Court in Sonu and Ors. v. Govt. of NCT of Delhi and Anr. W.P.(CrI.) No.1266/2007 decided on 10.10.2007 in a similar situation had observed that where there were no allegations in the FIR that a part of crime was committed in Delhi, the FIR should not be registered by Delhi Police. In Satvinder Kaur vs. State (Govt. of NCT of Delhi) (1999) 8 SCC 728 Supreme Court had considered the question of registration of FIR at length and taking note of different Sections of Cr.P.C. observed that the territorial jurisdiction was prescribed under Sub-Section 1 of Section 156 Cr.P.C. to the extent that a Police Officer can investigate any cognizable case, which a Court having jurisdiction over the local area within the limits of said Police Station would have power to enquire into or

try under the provisions of Chapter XIII. However, Sub Section (2) of Section 156 Cr.P.C. makes it clear that proceedings of Police Officer in any case cannot be called in question on the ground that the case was one which such Officer was not empowered to investigate. The Supreme Court further observed that Section 170 Cr.P.C. specifically provides that if, upon investigation, it appears to the Officers In-charge of the Police Station that crime was not committed within the territorial jurisdiction of Police Station, that FIR can be forwarded to the Police Station having jurisdiction over the area in which crime is committed.

3. It is clear that the law is that police can register an FIR of commission of a cognizable crime but after registration of FIR, if on scrutiny or investigation, it is found that crime was not committed within the jurisdiction of that Police Station but was committed within the jurisdiction of some other Police Station, the FIR should be transferred to that Police Station. However, if at the time of registration of FIR itself, it is apparent on the face of it that crime was committed outside the jurisdiction of the Police Station, the Police after registration of FIR should transfer the FIR to that Police Station for investigation. Normally a 'Zero' FIR is registered by Police in such cases and after registration of FIR, the FIR is transferred to the concerned Police Station. However, it seems that Delhi Police had invented another reason of invoking jurisdiction for registration of FIR and that reason is if somebody has influence or high connections in Delhi FIR can be registered in Delhi and investigation can be done by Delhi Police irrespective of fact whether the crime was committed outside Delhi. Not one, but several Writ Petitions have come to this Court where FIR under Section 498A/406 IPC have been registered in Delhi only because someone had influence or approach with Delhi Police or was close to the persons in power in Delhi. FIR is registered even if no part of the crime is committed in Delhi.

4. Present case is an example of that. In this case, the FIR has been registered against family of deceased husband though the parties lived only in Mumbai. Marriage was performed in Mumbai. Wife (Complainant) all along lived with her husband in Mumbai except for a short period when she lived with her father and her husband in Delhi and she made no allegations against her husband's behaviour during her stay in Delhi. All allegations are in respect of her stay in Mumbai. I consider that even if Delhi Police had registered FIR, this FIR should have been transferred forthwith to Mumbai. It is a fit case where petition should be allowed. The petition is allowed to the extent that FIR No. 598/2007 PS Rajouri Garden registered in Delhi should be transferred to Mumbai. The State is directed to transfer FIR No. 598/2007 PS Rajouri Garden to Mumbai Police.

Sd/-
SHIV NARAYAN DHINGRA, J.