

**Santa Devi and ors. Vs. State**

**Santa Devi and ors. Vs. State**

**SooperKanoon Citation :** [sooperkanoon.com/703734](http://sooperkanoon.com/703734)

**Court :** Delhi

**Decided On :** Aug-12-2002

**Reported in :** 99(2002)DLT604; II(2002)DMC512

**Judge :** Mahmood Ali Khan, J.

**Acts :** Indian Penal Code (IPC) - Sections 406 and 498A; ;Code of Criminal Procedure (CrPC) - Sections 177, 178 and 179

**Appeal No. :** Crl. R. No. 490/2002

**Appellant :** Santa Devi and ors.

**Respondent :** State

**Advocate for Def. :** None

**Advocate for Pet/Ap. :** A.K. Goel, Adv

**Disposition :** Petition dismissed

**Judgement :**

**Mahmood Ali Khan, J.**

1. The petitioners have filed this criminal revision challenging the order of a Metropolitan Magistrate (Mahila court), Karkardooma courts, Delhi dated 24.4.2002 by which she has framed charges against these petitioners for offences

under Section 498A and 406 IPC.

2. Briefly stated the facts are that on the complaint of smt. Renu Sharma a case for commission of the offences under Section 498A & 406 IPC was registered against her husband Hari Kishan Goswami and other members of his family including these petitioners. These petitioners are sisters of Hari Kishan Goswami. They are married and they are staying with their families in Barsana Distt. Mathura.

3. The counsel for the petitioner has stated that at the hearing of the charge the Metropolitan Magistrate has framed charges under Section 498A & 406 IPC against five accused namely Hari Kishan Goswami, Vijay Goswami, Smt. Brij Lata Goswami, Ram Kishan Goswami and Smt. Bhagwan Devi. She has framed charges against these petitioners under Section 498A IPC and has rejected the contention of these petitioners that the alleged offence was not committed by these petitioners in Delhi within the jurisdiction of that court and that these petitioners at the most could be said to have committed offence at Barsana in Dist. Mathura, U.P. thereforee, the case against them ought to have been registered in Mathura.

4. The short question which has been raised in this petition is whether the Metropolitan Magistrate in Delhi had jurisdiction to try these petitioners in this case.

The counsel for the petitioner has drawn attention to the prosecution case according to which after the marriage the complainant was taken to her in-laws house at Barsana in Mathura where she was harassed and treated with cruelty in order to coerce her to bring dowry, money and other valuable articles. After sometime the complainant and her husband came to Delhi where also her husband his parents and other treated her with cruelty. But there is no allegation that these petitioners came to Delhi, lived with her or they maltreated or harassed her with demand of dowry or money in Delhi. thereforee, these petitioners even if they committed the said offences under Section 498A IPC they committed it in Barsana (District Mathura) where these petitioners resided and not in Delhi.

5. Chapter 13 of the Criminal Procedure Code deals with the jurisdiction of the criminal courts in enquiries and trial- Sections 177, 178 & 179 Cr.PC being relevant are being reproduced as under:-

'177. Ordinary place of enquiry and trial:- Every offence shall ordinarily be inquired into and tried by a court within whose local jurisdiction it was committed.

' 178. Place of enquiry or trial:- a) when it is uncertain in which of several local areas an offence was committed, or

b) where an offence is committed partly in one local area and partly in another, or

c) where an offence is a continuing one, and continues to be committed in more local areas than one, or

d) where it consists of several acts done in different local areas,

it may be inquired into or tried by a court having jurisdiction over any of such local areas.

179. Offence triable where act is done or consequence ensues:- When an act is an offence by reason of anything which has been done and of a consequence which has ensued, the offence may be inquired into or tried by a court within whose local jurisdiction such thing has been done or such consequence has ensued.'

6. Section 177 has provided that every offence shall ordinarily be enquired into and tried by a court within whose local jurisdiction it was committed. Section 178 deals with the place of enquiry or trial in a situation where it was uncertain as to in which of the several local areas an offence was committed. Clause (b) of Section 178 has provided that if the offence is committed partly in one local area and partly in another it may be enquired into by a court having jurisdiction over any such local areas.

7. Clause (c) of Section 178 Cr.PC on the other hand is enacted in order to meet another situation where an offence is a continuing one and is continued to be committed in more than one local areas. Clause (d) at the same time has provided

for a situation where the offence consists of several acts done in different local areas. If the offence falls in any of the categories embodied in Clause (a) to (d) such offence could be enquired into or tried by a court having jurisdiction over any of such local areas. therefore, if an offence is committed partly in Barsana Distt. Mathura and partly at Delhi both the courts at Barsana and Delhi will have jurisdiction to try the cases. Scope of Section 177 is widened by Section 178. Section 179 has still further enlarged the scope of these provisions. If an act is done in one local area and its consequence ensued in another local area which constitute an offence such offence can be tried in any of these two local areas.

8. The argument of the petitioner is not tenable in law. Offence under Section 498A IPC is a continuing offence. It cannot be divided in segments incident wise and separate complaints of harassment for demand of dowry and property etc could not be filed against husband and members of his family or relatives at different places where each such cruelty and atrocities was committed within the meaning of Section 498A IPC. There is no force in the contention that for the offence of cruelty a complaint should have been filed by the complainant against these petitioners at Barsana in Dist. Mathura and for committing the atrocities by the husband and other members of his family in Delhi the complaint should have been filed in Delhi as part of cause of action that had accrued against them in Delhi. The cause of action for filing a complaint for offence under Section 498A IPC is one and is a continuing one.

9. As noticed above Clause (b) of Section 178 has provided that if an offence is committed partly in one local area and partly in another it may be inquired into or tried by a court having jurisdiction over any of such local areas. Similarly, Clause (c) of the above Section refers to the continuing offence. If an offence continues to be committed in more than one local area or other it can be tried by a court having jurisdiction over any of those local areas. The same is the situation prevailing here. According to the petitioner part of the offence was committed in Barsana Dist. Mathura where these petitioners resided and the parents of the husband of the complainant had a residence. The other part was committed by the husband and his relatives in Delhi. Being a continuing offence the courts at either of these two places had the jurisdiction to try the case.

10. In *Roshan Kumar Tiwari v. State of Delhi*, 2000 2 AD (Cr.) 836 it was held by this court, on similar facts, that the offences under Section 498A/406 IPC were continuing offences. In that case also the complainant wife was subjected to cruelty by her in-laws at Gorakhpur and consequence of those atrocities and mental torture continued to be followed the complainant who was living in Delhi with her parents, at Delhi where the complaint was filed. This being the legal position in view of Section 178 of the Cr.PC I do not see any merit in the argument of the petitioner.

11. In view of the foregoing discussion I do not find any merit in the argument of the counsel for the petitioner that the court of Metropolitan Magistrate at Delhi lacked territorial jurisdiction to take cognizance of the offence and summon the petitioners to stand trial before him, and try the case. The petition is accordingly dismissed in limini.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**