

**Mahindra Kumar Narendra and ors. Vs. State and ors.**

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**Court :** Delhi

**Decided On :** Nov-18-2004

**Reported in :** 115(2004)DLT355; I(2005)DMC61; 2005(79)DRJ47

**Judge :** R.C. Chopra, J.

**Acts :** Indian Penal Code (IPC) - Sections 34, 323, 406, 498A and 506;  
[Constitution of India](#) - Articles 226, 226(2) and 227; Code of Criminal Procedure (CrPC) - Sections 170, 173, 178 and 482

**Appeal No. :** WP (Crl) No 77/2004

**Appellant :** Mahindra Kumar Narendra and ors.

**Respondent :** State and ors.

**Advocate for Def. :** Akshay Bipin, Adv. for No. 1 and 2 and ; Mohit Mathur, Adv. for No. 3

**Advocate for Pet/Ap. :** Rahul Gupta,; Rakesh Mukhija and; S. Tabrez, Advs

**Disposition :** Petition dismissed

**Judgement :**

**R.C. Chopra, J.**

1. The petitioners feeling aggrieved by the registration of the FIR No.375/2003 at PS Shahdara, Delhi under Section 498-A/406/506/323/34 IPC have filed this Writ petition under Article 226 and 227 of the [Constitution of India](#) read with Section 482 of the Code of Criminal Procedure with the prayer to quash the aforesaid FIR and restrain the respondents from taking any action in pursuance thereof.

2. The facts relevant for the disposal of this petition, briefly stated, are that the petitioners are residents of Raj Nagar, Ghaziabad, U.P. Petitioner No.3, who is the son of petitioners No.1 & 2, was married to Ms.Sarabpreet Kaur, respondent No.3, a resident of Delhi. On account of some matrimonial disputes between petitioner No.3 and respondent No.3, FIR No.474/2003 dated 9.7.2003 was registered at PS Kavi Nagar, Ghaziabad, U.P. on the basis of a complaint filed by respondent No.3. The said FIR was transferred to Delhi and thereafter, registered as FIR No.375 of 2003 at PS Shahdara, Delhi. The petitioners allege that the transfer of the FIR and the registration thereof at Delhi was an abuse of the process of law and as such, was liable to be quashed. It is pleaded that Police at Ghaziabad, U.P. had no powers or authority to transfer the FIR, which was registered at PS Kavi Nagar, Ghaziabad.

3. It is also pointed out by the petitioners that after marriage, the petitioner No.3 and his wife respondent No.3 had stayed at Ghaziabad for few days and thereafter on 24.2.2002, they left for Bahrain as petitioner No.3 was working there for the last about 10 years. They came back from Bahrain after about 11/2 year and reached India on 3.7.2003. On the same date, the wife Sarabpreet Kaur, respondent No.3 left for her parents' house at Shahdara and on the morning of 4.7.2003, the petitioner No.3 went back to Bahrain to join his duty. On 9.7.2003 the wife respondent No.3 filed FIR at Kavi Nagar, Ghaziabad, U.P., on the basis of which petitioner No.1 was arrested. He was released on bail on 14.7.2003. The petitioner No.2 also surrendered before the Court and was released on bail on 18.7.2003. In October, 2003, the petitioners were approached by Police personnel from Delhi as well as some Police officials from Ghaziabad that FIR No.375/2003 had been registered at Delhi and thereafter, on inquiries, they came to know that the Police authorities at Ghaziabad had ordered transfer of the FIR and investigations to Delhi. It is pleaded that the registration of FIR at Shahdara, Delhi is without

jurisdiction, illegal and actuated with malafides of the complainant to blackmail and pressurize the petitioners.

4. In the Status Report filed on behalf of the State, it is stated that the FIR No.474/2003 registered at PS Kavi Nagar, Ghaziabad, was transferred to Delhi as the complainant was apprehending danger to her life while going to U.P. to attend the case. It is also pointed out that the FIR lodged at Kavi Nagar, Ghaziabad disclosed that after coming back from Bahrain, the husband of the complainant had brought her to her parental house at Shahdara, Delhi and asked her parents that she should be sent to her matrimonial home only when they were able to give Rs.3 lacs. On 9.7.2003, when the complainant went to her matrimonial home at Raj Nagar, Ghaziabad, she came to know that her husband had already left for Bahrain. Her in-laws did not allow her to enter the matrimonial home and she was given beatings also. It is clarified that no fresh case has been registered by Delhi Police and only a new number has been given to the old FIR, which was being investigated by U.P. Police. On the request of the petitioners' counsel, the case file was produced before the Court and it was shown that the orders for transferring the FIR from Ghaziabad to Delhi were on the ground that the complainant was making a request for transfer of the FIR and also for the reason that part of the cause of action had arisen within the jurisdiction of Delhi Courts.

6. Learned counsel for the petitioners has vehemently argued that the FIR registered at Ghaziabad could be transferred to Delhi only if no part of cause of action had arisen at Ghaziabad. It is also submitted that only High Court could transfer the investigations of the FIR No.474/2003 registered at PS Kavi Nagar to Delhi. He relies upon the judgments in 'Satvinder Kaur V. State & Anr.' : AIR 1999 SC3596 , 'Navinchandra N.Majithia V. State of Maharashtra & Ors.' : AIR 2000 SC2966 , 'State of Haryana & Ors. V. Bhajan Lal & Ors.' : 1992 CriLJ527 and 'T.T.Antony V. State of Kerala & Ors.' : 2001 CriLJ3329 to contend that Ghaziabad Police had no authority or power to transfer the investigations to Delhi.

7. On the other hand, learned counsel for the State and learned counsel for respondent No.3 argue that the FIR in question was merely forwarded by Ghaziabad Police to Delhi on the request of the complainant and for the reason

that part of cause of action had arisen within the jurisdiction of Delhi Courts and as such, no illegality or irregularity had been committed. It is submitted that the FIR remains the same and only its number has been changed so that it is registered at the concerned Police Station and investigations are carried out in accordance with law. They rely upon the judgment of *Satvinder Kaur V. State & Anr.*(supra) as well as the judgment in '*Sukhjinder Singh V. State*' : 2001 CriLJ4764 to contend that there was nothing wrong in forwarding the FIR to Delhi Police and its registration and investigations.

8. After considering the submissions made by learned counsel for the parties and in view of the judgment of the Apex Court in *Satvinder Kaur V. State* (supra), this Court is of the view that there is no embargo or restriction upon an Investigating Officer in the matter of forwarding an FIR to a Police Station if he comes to the conclusion that the crime was committed within territorial jurisdiction of that Police Station also. It cannot be held that FIR can be transferred only when it is found that no cause of action had arisen within the area in which FIR was lodged. In *Satvinder Kaur's* case, the quashing of the FIR by the High Court was held improper but it was nowhere stated that when an offence has been committed partly in one area and partly in another area, the I.O. has no powers to forward the case to the Police Station of the area in which the offence appears to have been partly committed. For example, if the kidnapping takes place in area 'A', murder takes place in area 'B' and the destruction of evidence is in area 'C', the FIR can be registered by the Police at any of the three places under Section 178(c) of the Code for the reason that the Magistrates of all these areas are empowered to take cognizance of the offence under Section 170 and 173 of the Code of Criminal Procedure. Investigating Officer in whose area the offence was partly committed and FIR was lodged may for a variety of reasons forward the case to another area, in which also the offence was partly committed, so that further investigations and trial may take place in that area. In the case of murder as mentioned above, if FIR is lodged at place 'C' but the Investigating Officer is of the view that the investigations and trial should be at place 'A' or 'B' where the main offence was committed or where the witnesses and evidence are readily available or more effective investigations can be conducted by the Police of those areas, he may forward the case to the Police Stations of those areas. It is not necessary that

Investigating Officer forwarding the case should find that no part of cause of action had taken place within his jurisdiction inasmuch as where an offence is partly committed at one place and partly at another place, the discretion must remain with the Police or complainant to choose the place of trial. The accused should not have any say in the matter. The only embargo is that FIR cannot be transferred to an area in which no part of offence appears to have been committed. The case of Naveenchandra N.Majithia V. State of Maharashtra & Ors. (Supra) dealt with the question of cause of action only in relation to Article 226(2) of the [Constitution of India](#) and as such, is not directly applicable to the facts of the present case.

9. In the present case, the file produced by the State before the Court, which was requisitioned on the request of learned counsel for the petitioners, clearly discloses that the investigations were transferred to Police Station Shahdara by the Ghaziabad Police on the ground that the complainant was finding it difficult to pursue her case in Ghaziabad as well as for the reason that part of cause of action had arisen within the jurisdiction of Police Station Shahdara where the petitioner No.3 had left his wife respondent No.3 after saying that she should be sent back to her matrimonial home only when her family was able to give Rs.3 lacs. It is alleged that thereafter on that very night, the petitioner No.3 left for Bahrain and when the complainant respondent No.3 went to her matrimonial home, she was maltreated and beaten and as such, she spontaneously made a report at PS Kavi Nagar, Ghaziabad. Since a part of cause of action had arisen within the jurisdiction of Delhi Courts also and the complainant was requesting Ghaziabad Police to send her case to Delhi, there was nothing wrong if the FIR was forwarded to PS Shahdara and was registered as FIR No.375/2003. If no part of cause of action had arisen within the jurisdiction of PS Shahdara, the things would have been otherwise.

10. It is not understandable as to what prejudice the accused-petitioners would suffer if instead of Ghaziabad Police, the Police at Delhi carries out the investigations and the case is tried by Delhi Courts. It appears that the petitioners are trying to bring respondent No.3 under pressure by making her pursue the case in U.P. as they know that she and her parents are residents of Delhi and it would be difficult for them to pursue the matter in Ghaziabad or U.P. Courts. It cannot be

held that the registration of FIR at Shahdara, Delhi, was without jurisdiction, illegal, abuse of process of law or actuated with any malafides. The judgments of the Apex Court in State of Haryana & Ors. V. Bhajan Lal & Ors. and T.T.Antony V. State of Kerala (supra) are of no help to petitioners as it is not a case of second FIR but merely a case of transfer of the FIR from one Police Station to another Police Station.

11. In the result, this Court is of the considered view that the prayer for quashing the FIR No.375/2003 registered at PS Shahdara and for prohibiting the Police from carrying out further investigations is without any merit.

12. The petition, therefore, stands dismissed.

13. However, it is clarified that the benefit of bail that has been granted to two of the petitioners by the Courts at Ghaziabad shall continue and shall not be re-agitated merely on the ground that the case has been forwarded to Delhi Police.

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