

Amit Sharma Vs State and ors.

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Court : Delhi

Decided On : Aug-06-2010

Judge : Mr. Shiv Narayan Dhingra, J.

Appeal No. : Crl. M.C. 722 of 2009

Appellant : Amit Sharma

Respondent : State and ors.

Advocate for Def. : Mr. Sunil Sharma, Mr. R.K. Pandhi, Advs.

Advocate for Pet/Ap. : Mr. R.S. Kela, Adv.

Judgement :

1. Whether reporters of local papers may be allowed to see the judgment? Yes.

2. To be referred to the reporter or not? Yes.

3. Whether judgment should be reported in Digest? Yes.

1. The present petition under Section 482 Cr.P.C read with Article 227 of the Constitution of India has been preferred by the petitioner for quashing of FIR No.170 dated 15th August, 2008 registered at Police Station Kirti Nagar, West Delhi District, New Delhi.

2. The present FIR was registered at the behest of Smt. Kavita Gupta who a resident of USA and had come to Delhi perhaps only for registration of this FIR. A

perusal of FIR reveals that Smt. Kavita Gupta was living in USA since 1993. She obtained Master Degree in Electrical Engineering from Arizona State, USA in 1995 and subsequently got employed in USA and started working there and living there. She came to India at Panchkula, Haryana for the purpose of marriage and was married to Shri Amit Sharma on 10th January 2000 at Panchkula. After this marriage, her version of events, as given in FIR reads as under:

"After marriage, I and my husband went to USA and all the documents and money for the visa and other arranged by me as per assurance and promise of the husband that when we will reach at USA, I already arranged a job at there through my friends and sister immediately I will joint there and payback to all the money spent by you for my visa and other expenses in presence of my father in law and mother in law. Accordingly, my husband and I arrived at USA in the month end of January, 2000 and I shocked after four months pass away when my husband at home without any job neither he tries for the same nor any tension in his mind, totally depends upon me as well as enjoy with my hard earning money congregate since 1993 and the present salary earned by me. In continuation, my husband wants to persuade a professional course for the same course I burdened the shelter, education and day to day expenses of my husband, texts books, fees, etc. Till 2003 I provided well professional education my husband and accordingly he got the join in the year, 2004 as per the hardship, sacrifice and financial and monetary help and encouragement of mine. I have, sponsored him H-4 spouse visa to USA. Thus facilitating immigration to USA and sponsored his Green Card application. As such I have not been able to enjoy my matrimonial life and married life normally and I totally sacrificed her obligations and enjoyments only for the career and goodwill of my husband. Further, I have provided a car to him for his personal use totally financed by me just to maintain the respondent's social status in the University as well as his friends circle. The year wise events of sacrifice and financial help provided by me annexed as Annexure-B. My nightmare started after my husband got a full time job. As soon as he was settled into his job, his parents (father in law and mother in law) sponsored by his sister for green cards and they come to stay on a permanent basis at my place now in addition to supporting my husband, I was forced to pay for his parents expenditure as well. It is to be noted that I was not even informed about the development that they were planning to

immigrate permanently and would be staying with the complainant. His sister Anita Trehan sponsored and signed the financial support documents agreeing to support his parents. However, she has not contributed singly penny towards their support nor offer to keep them at her home. This information has been reported to USA immigration authorities as well. His parents in compliance with his sister and my husband therefore forced their way into the house in Houston and started to threatened me and harass me if I questioned them on this step. Further, I submit that they treated me like a slave and prisoner in my own house each time of which has been bought with my own hard earned money. I was subjected to mental abuse, and criticized the complainant constantly and made her lose of her self-esteem. It is to be noted that I was undergoing infertility (intrusive inventor fertilization procedure) chiefly because of my husband's abuse the complainant (push her against the wall, twist her arms, catch her neck) and in summer 2006, he slapped her in front of his parents as well as admitted to doing other physical harms and also threatened to me to evict me from my life and made pieces of her dead body and the same can be disposed of in such a manner without be able to identifying at any point to time. It is further pertinent to mention here that on August 2 2006, my husband and his parents assaulted me and forced me out of my own house in Friendswood, Texas, where each and everything were brought by myself including two cars. They also took all my wedding and other jewellery into their possession i.e. my "Istri Dhan" items and they also took possession of all the cheque books of joint accounts and without the knowledge of the petitioner, they transferred/ withdrew considerable amounts from the account. They have further gone into such a grave extent by removing and destroying all the documents relating to the education and bills etc paid by me for my husband and even spent for the welfare of the parents of my husband. After completing their ill designs they had filed a divorce case against me in Harris County Court, USA on the grounds of irreconcilable differences and further claimed all the properties belonged to me which I got and bought out of my own hard earned money. Being harassed by my in- laws and my husband I with folded hands request / pray before your goodself to register a criminal case against my husband and my in-laws for the offence committed by them ."

3. After lodging this FIR in Delhi, she again flew back to USA and is presently residing in USA. The case is being prosecuted by her father as her attorney. A perusal of this FIR would show that immediately after marriage, the parties moved to USA and thereafter all events as alleged by her are of USA. Even the allegations of her Istridhan being taken away by her father in law and mother in law is of USA and not of India. Allegations of cruelties and the attitude of her husband towards her are all of USA. It is not stated by her that she ever stayed with her in laws or husband from the time of marriage till filing of this complaint at Delhi. When the counsel for State was asked how this FIR was registered in Delhi, the response of the State counsel as given in the form of brief synopsis is that while in India, the complainant and accused cohabited at Delhi at Kirti Nagar, which is the matrimonial house of complainant and therefore there was jurisdiction of Delhi court. A perusal of FIR would show that nowhere the complainant had stated that cohabitation had ever taken place between the parties at Delhi or the parties ever lived at Delhi.

4. It is surprising that such FIRs are registered by the police when neither complainant lives in Delhi nor the accused persons live in Delhi nor any part of alleged offence had taken place in Delhi. The alleged offence admittedly had taken place in USA. All the accused persons, as mentioned by the complainant, are living in USA. The complainant herself is living in USA and the father of complainant perhaps is living in Delhi and pursuing this complaint. I consider that registration of this FIR is a sordid story of working culture of Delhi police. It is this police which refuses to register FIRs in case of robberies, thefts and other heinous offences which take place on the roads of Delhi and when the complainant dare comes to police station for registration of FIR, he is made to run from one police station to another on the issue of jurisdiction itself, while the FIRs are registered when nothing happened in India and no investigation can be done by the police in India. Why such FIRs are registered is obvious. It seems registration of FIRs has been made a profitable business by some police officials. The police, in the present case, not only registered the FIR but also got lookout circulars for the petitioners issued.

5. Police is supposed to be professional in its working culture. The fall in standard of police has gone to such an extent that in genuine cases it is difficult to get a case registered and even if registered, it won't act with sincerity but you can get any false FIR registered with it, if you have right connections. The Supreme Court has to say about registration of FIRs in India in *Lalita Kumari v Govt. of U.P. & Ors* Writ Petition (Crl.) No.68 of 2008 decided on 14th July, 2008 as under: "It is a matter of experience of one of us (B.N. Agrawal, J) while acting as Judge of Patna High Court, Chief Justice of Orissa High Court and Judge of this Court that in spite of law laid down by this Court, the concerned police authorities do not register FIRs unless some direction is given by the Chief Judicial Magistrate or the High Court or this Court. Further experience shows that even after orders are passed by the concerned courts for registration of the case, the police does not take the necessary steps and when matters are brought to the notice of the Inspecting Judges of the High Court during the course of inspection of Courts and Superintendents of Police are taken to task, then only FIRs are registered. In large number of cases investigations do not commence even after registration of FIRs and in case like the present one, steps are not taken for recovery of the kidnapped person or apprehending the accused person with reasonable despatch. At times it has been found that when harsh orders are passed by the Members of the Judiciary in a State, the police becomes hostile to them for instance in Bihar when a bail petition filed by a police personnel, who was accused was rejected by a member of Bihar Superior Judicial Service, he was assaulted in the Court room for which contempt proceedings were initiated by Patna High and the erring police officials were convicted and sentenced to suffer imprisonment. On the other hand, there are innumerable cases that where the complainant is a practical person, FIRs are registered immediately, copies thereof are made over to the complainant on the same day, investigation proceeds with supersonic jet speed, immediate steps are taken for apprehending the accused and recovery of the kidnapped persons and the properties which were subject matter of theft or dacoity. In the case before us allegations have been made that the Station House Officer of the concerned Police Station is pressurizing the complainant to withdraw the complaint, which, if true, is a very disturbing state of affairs. We do not know there may be innumerable such instances."

6. In the result, I allow this petition and the FIR No.170 dated 15th August, 2008 registered at Police Station Kirti Nagar, West Delhi District, New Delhi and the proceedings emanating therefrom are hereby quashed. The lookout circulars of petitioners are also quashed.

7. The petition stands allowed.

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