

Puneet Chawla Vs. State and anr

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Court : Delhi

Decided On : Feb-26-2013

Judge : G.P. Mittal

Appellant : Puneet Chawla

Respondent : State and anr

Advocate for Def. : Ms. Rajdipa Behura

Advocate for Pet/Ap. : Mr. Prag Chawla, Mr. K.K. Sharma, Mr. Saurav

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI Reserved on:

19. h February, 2013 Pronounced on:

26. h February, 2013 + CRL.M.C. 2534/2011 PUNEET CHAWLA Through: ..
Petitioner Mr. Prag Chawla, Adv. with Mr. K.K. Sharma, Adv. Mr. Saurav, Adv.
versus STATE & ANR Through: Respondents Ms. Rajdipa Behura, APP for
the State. CORAM: HON'BLE MR. JUSTICE G.P.MITTAL JUDGMENT G. P.
MITTAL, J.

1. The Petitioner invokes inherent powers of this Court under Section 482 of the Code of Criminal Procedure (the Code) for quashing of FIR No.518/2007 dated 28.11.2007, registered at Police Station (PS) Janakpuri and the report under Section 173 of the Code filed on the basis of the said FIR.

2. The short ground taken by the Petitioner is that the allegations made by the complainant in the charge sheet would show that the alleged acts of cruelty/misappropriation took place either at Faridabad or at Chandigarh. Relying on Sections 177 and 178 of the Code, the learned counsel for the Petitioner urges that since neither the offence nor any part thereof was committed within the jurisdiction of NCT of Delhi, Delhi Police was not entitled to carry out the investigation in respect of the offence alleged and the Court at Delhi was not competent to take cognizance of the charge sheet. Relying on *Y. Abraham Ajith & Ors. v. Inspector of Police, Chennai & Anr.*, 2004 VIII AD(S.C.) 288, the learned counsel for the Petitioner prays for quashing of the FIR.

3. On the other hand, Ms. Rajdipa Behura, learned APP for the State drawing my attention to Section 156 of the Code and states that an Officer in charge of Police Station is under obligation to investigate any case which a Court having jurisdiction over the local area, within the limits of such Police Station, would have power to inquire into or try under the provisions of Chapter XIII of the Code. It is stated that the proceedings of a Police Officer cannot be called in question on the ground that the case is one which such officer was not empowered to investigate under this Section. The learned APP presses into service a judgment of the Supreme Court in *Satvinder Kaur v. State(N.C.T.) of Delhi*, (1999) 8 SCC 72. and a judgment of a Co-ordinate Bench of this Court in *Malkiat Singh v. State*, (2005) 121 DLT 668. The learned APP argues that although Delhi Court may not have any jurisdiction to try the case, yet the investigation carried out by the IO will not be illegal and the case can be returned to the SHO for presenting it to the Court having jurisdiction.

4. In *Y. Abraham Ajith*, on facts it was found that the offence was committed at Nagercoil. The Supreme Court quashed the complaint on the ground that no part of the cause of action arose in Chennai and, therefore, the concerned Magistrate had no jurisdiction to deal with the matter.

5. In *Satvinder Kaur* relied upon by the learned APP, the Supreme Court analysed the provisions of Sections 156, 168, 169, 170, 177 and 178 of the Code. The Supreme Court laid emphasis on Section 156(1) of the Code and observed that although a Police officer can investigate any cognizable case which a Court having

jurisdiction over the local area within the limits of such Police Station would have power to inquire into or try under Chapter XIII of the Code, yet by virtue of sub-Section (2) the investigation carried out by a Police officer on the ground that the case was one in which he was not empowered to investigate would not make his investigation illegal. The Supreme Court thus set aside the order of the High Court quashing the FIR and the Investigating Officer was directed to complete the investigation. Paras 10, 11, 12 and 14 of the report are extracted hereunder:

10. It is true that territorial jurisdiction also is prescribed under sub-section (1) to the extent that the officer can investigate any cognizable case which a court having jurisdiction over the local area within the limits of such police station would have power to enquire into or try under the provisions of Chapter XIII. However, sub-section (2) makes the position clear by providing that no proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered to investigate. After investigation is completed, the result of such investigation is required to be submitted as provided under Sections 168, 169 and 170. Section 170 specifically provides that if, upon an investigation, it appears to the officer in charge of the police station that there is sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police report and to try the accused or commit for trial. Further, if the investigating officer arrives at the conclusion that the crime was not committed within the territorial jurisdiction of the police station, then FIR can be forwarded to the police station having jurisdiction over the area in which the crime is committed. But this would not mean that in a case which requires investigation, the police officer can refuse to record the FIR and/or investigate it.

11. Chapter XIII of the Code provides for jurisdiction of the criminal courts in enquiries and trials. It is to be stated that under the said chapter there are various provisions which empower the court for enquiry or trial of a criminal case and that there is no absolute prohibition that the offence committed beyond the local territorial jurisdiction cannot be investigated, enquired or tried. This would be clear by referring to Sections 177 to 188. For our purpose, it would suffice to refer only

to Sections 177 and 178 which are as under:

177. Ordinary place of enquiry and trial. Every offence shall ordinarily be enquired 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 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 enquired into or tried by a court having jurisdiction over any of such local areas.

12. A reading of the aforesaid sections would make it clear that Section 177 provides for ordinary place of enquiry or trial. Section 178, inter alia, provides for place of enquiry or trial when it is uncertain in which of several local areas an offence was committed or where the offence was committed partly in one local area and partly in another and where it consisted of several acts done in different local areas, it could be enquired into or tried by a court having jurisdiction over any of such local areas. Hence, at the stage of investigation, it cannot be held that the SHO does not have territorial jurisdiction to investigate the crime. x x x x x x x x

14. Further, the legal position is well settled that if an offence is disclosed the court will not normally interfere with an investigation into the case and will permit investigation into the offence alleged to be completed. If the FIR, prima facie, discloses the commission of an offence, the court does not normally stop the investigation, for, to do so would be to trench upon the lawful power of the police to investigate into cognizable offences. [State of W.B. v. Swapan Kumar Guha, (1982) 1 SCC 56.:

1982. SCC (Cri) 283] It is also settled by a long course of decisions of this Court that for the purpose of exercising its power under Section 482 Cr PC to quash an FIR or a complaint, the High Court would have to proceed entirely on the basis of the allegations made in the complaint or the documents accompanying the same per se; it has no jurisdiction to examine the correctness or otherwise of the allegations. [Pratibha Rani v. Suraj Kumar, (1985) 2 SCC 370.395 :

1985. SCC (Cri) 180].

6. It is true that in Y.Abraham Ajith which is a latter decision than in Satvinder Kaur, the Supreme Court had quashed the proceedings, yet in para 19 it was observed that the complaint shall be returned to the Respondent No.2 who shall be at liberty to file the same in the appropriate Court to be dealt with in accordance with law. Thus, there is no contradiction in the law laid down in Satvinder Kaur and Y.Abraham Ajith.

7. A co-ordinate Bench of this Court in Malkiat Singh noticed the reports in Y.Abraham Ajith and Satvinder Kaur and observed that the concerned Metropolitan Magistrate may be directed to return the police report to the Investigating Officer so that the same could be presented to the appropriate Court.

8. In view of foregoing discussion, the FIR and the charge sheet filed on the basis thereof cannot be quashed. The learned Metropolitan Magistrate concerned is directed to return the report under Section 173 of the Code to the officer in charge of the Police Station with the direction to present it to the Court of competent jurisdiction.

9. The Petition is disposed of in above terms.

10. Pending Applications stand disposed of. (G.P. MITTAL) JUDGE FEBRUARY 26 2013 pst

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