

Criminal Revision

Present:

The Hon'ble Justice Ashim Kumar Roy

Judgment on 03.09.2010

C.R.R. No. 1728 of 2010

Sri Anil Barua

versus

The State of West Bengal & Anr.

Point:

Cause of action- Whether court can try a case if no cause of action arose within its territorial jurisdiction.-Code of Criminal Procedure,1973 S 482

Facts:

The allegations made in the First Information Report that after marriage both the husband and wife were started residing at the staff quarter of Raj Bhawan, Kolkata where her husband was working as a cook. It is also alleged that everyday her husband used to come back under the influence of liquor and used to assault her on demand of further dowry and finally on September 6, 2008 the petitioner returned home, in a drunken condition and started assaulting her and then drove her out from his quarter. The said incident was reported to the Hare Street Police Station vide General Diary No. 102/2008, dated September 7, 2008.

Held:

On the face of the allegations and accepting the same as a whole, it appears the cause of action as regards to the offence for which charge-sheet has been submitted actually accrued within the jurisdiction of the Hare Street Police Station which falls within the territorial limit of the Learned Chief Metropolitan Magistrate, Kolkata and not within the territorial limit of the

Learned Chief Judicial Magistrate, Barrackpore. Thus, the impugned order of taking cognizance in connection with G.R. Case No. 102/2008 stands quashed. It is directed the entire records of the case be transferred to the Court of the Learned Chief Metropolitan Magistrate, Kolkata within whose territorial limit the offence alleged has been committed. The Learned Chief Judicial Magistrate, Barrackpore is directed to transfer the record of the case within seven days from the date of communication of this order to the Court of the Learned Chief Metropolitan Magistrate, Kolkata, whereupon the transferee Court shall proceed in accordance with law. Para 5

For Petitioner : Mr. Debasis Kar

For State : Mr. Sandipan Ganguly

The Court: Invoking Section 482 of the Code of Criminal Procedure, the petitioner who has been charge-sheeted under Sections 498A/323 of the Indian Penal Code has approached this Court for quashing of the said charge-sheet.

2. Heard the learned advocates appearing on behalf of the petitioner as well as the Learned Counsel appearing on behalf of the State. Perused the Case Diary. None appeared on behalf of the defacto-complainant. The affidavit of service filed in Court be kept with the records.

3. The only ground that has been urged before this Court by the Learned Counsel of the petitioner is this that no part of cause of action arose within the territorial limit of the Learned Chief Judicial Magistrate, Barrackpore, accordingly, the order of taking cognizance by the Court concerned is absolutely without jurisdiction and thus the same is liable to be set aside.

4. Now, having regards to the allegations made in the First Information Report, I find that after marriage both the husband and wife were started residing at the staff quarter of Raj Bhawan, Kolkata where her husband was working as a cook. It is also alleged that everyday her husband used to come back under the influence of liquor and used to assault her on demand of further dowry and finally on September 6, 2008 the petitioner returned home, in a drunken condition and started assaulting her and then drove her out from his quarter. The said incident was reported to the Hare Street Police Station vide General Diary No. 102/2008, dated September 7, 2008. Now, having regards to the statement of the defacto-complainant as well as the other witnesses, who have been examined by the police, I find according to them she was subjected to torture by her husband almost everyday under the influence of liquor on demand of dowry and she was subjected to such torture at the quarter of her husband situated at Raj Bhawan, Kolkata, where she was residing with him.

5. Now, on the face of the aforesaid allegations and accepting the same as a whole, it appears the cause of action as regards to the offence for which charge-sheet has been submitted actually accrued within the jurisdiction of the Hare Street Police Station which falls within the territorial limit of the Learned Chief Metropolitan Magistrate, Kolkata and not within the territorial limit of the Learned Chief Judicial Magistrate, Barrackpore. Thus, the impugned order of taking cognizance in connection with G.R. Case No. 102/2008 stands quashed. It is directed the entire records of the case be transferred to the Court of the Learned Chief Metropolitan Magistrate, Kolkata within whose territorial limit the offence alleged has been committed. The Learned Chief Judicial Magistrate, Barrackpore is directed to transfer the record of the case within seven days from the date of

communication of this order to the Court of the Learned Chief Metropolitan Magistrate, Kolkata, whereupon the transferee Court shall proceed in accordance with law. Since, none appeared on behalf of the defacto-complainant the Office is directed to communicate this order to her at once. It is further directed that a free copy of this Judgement be handed over to the Learned Advocate of the State, who in turn made over the same to the defacto-complainant of the case through the Investigating Officer of the case.

6. This application succeeds and stands allowed.

7. Criminal Section is directed to deliver urgent Photostat certified copy of this Judgement to the parties, if applied for, as early as possible.

(Ashim Kumar Roy, J.)

