



**HIGH COURT OF ANDHRA PRADESH**  
FRIDAY ,THE TWENTY FOURTH DAY OF APRIL  
TWO THOUSAND AND TWENTY

**PRESENT**

**THE HONOURABLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY**  
**CRIMINAL PETITION NO: 6976 OF 2019**

**Between:**

1. Redla Jyothsna W/o.Redla Sai, Aged about 35 years, Occ. Housewife, R/o.D.No.65-3-245, Ex-Servicemen Colony, Sriharipuram, Visakhapatnam City, A.P. Presently residing at Flat-41, Bld-781, Road-3630, Block-336 Adliya, Bahrain.
3. Redla Sai Venkata Ramana @ Sai S/o.RTVS Kanna Rao, Aged about 44 years, Occ. Bank Employee, R/o.D.No.65-3-245, Ex-Servicemen Colony, Sriharipuram, Visakhapatnam City, A.P. Presently residing at Flat-41, Bld-781, Road-3630, Block-336 Adliya, Bahrain

**...PETITIONER(S)**

**AND:**

1. Sowmya Lingam W/o.Anil Kumar Lingam, Aged about 33 years, R/o.Plot No.1411, Emerald Block, My Home Jewel, Madinaguda, Hyderabad, State of Telangana.
2. THE STATE OF ANDHRA PRADESH Represented by its Public Prosecutor, High Court of Judicature of Andhra Pradesh at Amaravathi.

**...RESPONDENTS**

**Counsel for the Petitioner(s): K RAMA KOTESWARA RAO**

**Counsel for the Respondents: J U M V PRASAD**

**The Court made the following: ORDER**

**HON'BLE SRI JUSTICE CHEEKATI MANAVENDRANATH ROY****Criminal Petition Nos.6376 and 6976 of 2019****COMMON ORDER:**

Since both these Criminal Petitions are filed by the accused in Crime No.69 of 2018 of Women Police Station, Kurnool, seeking quash of F.I.R. under Section 482 Cr.P.C, both the petitions were heard together and they are being disposed of by this common order.

Petitioners in CrI.P.No.6376 of 2019 are accused Nos.1 and 2 and petitioners in CrI.P.No.6976 of 2019 are accused Nos.3 and 4 in the above crime.

Shorn of the irrelevant details, facts germane to dispose of both these Criminal Petitions may be stated as follows:

Accused No.1 is the husband of the *de facto* complainant. Accused No.2 is the father-in-law of the *de facto* complainant. Accused Nos.3 and 4 are the sister and brother-in-law of accused No.1.

The *de facto* complainant lodged a report with the Police stating that her marriage was performed with accused No.1 in Vizag. Thereafter, they have setup a family in Hyderabad, where accused No.1 is living in pursuance of his employment and they lead conjugal life. Accused No.2, who is the father of accused No.1, also resided with them in Hyderabad. After their marriage, accused No.1 started harassing the *de facto* complainant making unlawful demands. Accused No.1 and his family members insisted



the *de facto* complainant to invest Rs.20.00 Lakhs to purchase a house in Visakhapatnam. She refused for the same. However, she has invested Rs.20.00 Lakhs to purchase a flat in Hyderabad, to satisfy the demand of accused No.1. But, he is not satisfied with the same. He started suspecting her fidelity and harassed her mentally. Accused No.3, who is the sister of accused No.1, was not happy regarding the decision taken by the *de facto* complainant in investing money to purchase a flat in Hyderabad. So, she bore grudge against her. Therefore, she dragged her brother, who is accused No.1, into an extra-marital affair with one beautician in Hyderabad. She also picked up a quarrel with the *de facto* complainant and dragged the *de facto* complainant by catching hold the tuft of her hair.

In the year 2015, accused No.1 went to the foreign country-Latvia on official work. She also accompanied him. Accused No.1 used to keep her in the house and lock the doors of the house while going to office. Accused No.1 even did not allow the *de facto* complainant to meet her friends in Visakhapatnam.

Accused No.1 also beat the *de facto* complainant and subjected her to both physical and mental torture. Even, accused No.2, who is her father-in-law, also used to physically and mentally harass her and used to drag her by catching hold of the tuft of her hair and he used to



strangulate her neck. He also used to threaten her with dire-consequences to kill her. Accused No.1 also used to encourage his father, who is accused No.2.

Eventhough, her father purchased two properties in Hyderabad in the name of accused No.1 after availing loan, accused Nos.1 and 2 are not satisfied with the same and they used to indirectly demand for additional dowry. Accused No.1 gained access into her mobile phone and also WhatsApp account through some other mobile application and started monitoring her mobile phone discretely. He even went to the extent of posting objectionable messages and pictures to her friends through her WhatsApp and he used to insult her among her friends circle. Accused No.1 used to blackmail the *de facto* complainant by showing the said WhatsApp chats and messages and threaten her that he would make them public and tarnish her image. Therefore, she was subjected to severe mental depression and she was forced to take a decision to commit suicide.

On 17.09.2017 accused No.1 took the *de facto* complainant to Kurnool and raised dispute before her parents showing the said manipulated WhatsApp conversation and messages and indirectly made a demand for additional dowry from her father. Her father with great difficulty could pacify accused No.1 by rendering further financial help to him by way of giving additional dowry.



Accused No.1 also developed illegal contact with one woman by name Manjula @ Sita Mahalakshmi, who is working as a beautician in Hyderabad, who is accused No.5, who was introduced to him by accused No.3. The *de facto* complainant also noticed accused No.1 moving very closely with the said Manjula openly. When she questioned accused No.1 in this regard he stated that he married her.

She also stated in the report lodged by her with the police that her husband and father-in-law used to beat her in the house and thereby harassed her and in view of the said harassment being caused to her by her husband, father-in-law, sister-in-law and her husband that she got threat to her life in their hands. Therefore, she prayed to take necessary legal action against them by prosecuting them for the said offences under law and to provide protection to her.

The said report was registered as a case in Crime No.69 of 2018 by the Station House Officer, Women Police Station, Kurnool, for the offences punishable under Sections 498-A, 494, 323, 506 r/w. 34 of IPC and Sections 3 and 4 of the Dowry Prohibition Act. The said case is under investigation by the Police.

The petitioners sought quash of the said F.I.R. primarily on two grounds. Firstly, the allegations made in the F.I.R. are all absolutely false and even otherwise the said allegations *per se* do not constitute any offence punishable



under Section 498-A of IPC, as the necessary ingredients contemplated under Section 498-A of IPC are conspicuously absent and as such, no offence whatsoever is made out under Section 498-A of IPC. Secondly, admittedly both the *de facto* complainant and accused No.1 lived together after their marriage in Hyderabad and as the alleged instances of harassment, even according to the allegations set out in the F.I.R., took place in Hyderabad, the Station House Officer, Women Police Station, Kurnool has no jurisdiction to register the F.I.R. and investigate the case and he is not competent to register the F.I.R. and investigate the case. Therefore, on the aforesaid two grounds the petitioners sought quash of the F.I.R. under Section 482 Cr.P.C.

Heard Sri K.Ramakoteswarara Rao, learned counsel for the petitioners; Sri Y.V.Ravi Prasad, learned Senior Counsel, appearing on behalf of the 1<sup>st</sup> respondent-*de facto* complainant, for Sri J.U.M.V.Prasad, learned counsel, and the learned Assistant Public Prosecutor for the 2<sup>nd</sup> respondent-State.

In so far as the first ground on which the petitioners sought quash of the F.I.R. is concerned, again it is twofold. Firstly, they contend that the allegations made in the F.I.R. against the petitioners are absolutely false and as such continuation of proceedings against them would amount to abuse of process of law. Secondly, they contend that since the alleged instances of harassment took place in Hyderabad



as per the allegations made in the F.I.R., the Police of Women Police Station, Kurnool, have no jurisdiction to register the F.I.R. and investigate the same.

As regards the first contention that the allegations set out in the F.I.R. are all false is concerned, *prima facie*, no material is available on record to hold with certainty that the allegations mentioned in the F.I.R. against the petitioners are absolutely false. Except making a bald assertion to that effect, the petitioners could not substantiate, at this stage, that the said allegations mentioned in the F.I.R. against them are absolutely false. Whether the allegations mentioned in the F.I.R. against the accused are true or not is purely a disputed question of fact which cannot be adjudicated or decided by this Court in exercise of its inherent powers under Section 482 Cr.P.C. It is for the Investigating Officer to investigate the case and ascertain whether the allegations set out in the F.I.R. are true or not. If it is *prima facie* found during the course of investigation that the allegations mentioned in the F.I.R. are true and if he could collect evidence to substantiate the same during the course of investigation, he has to file the final report in the concerned Court and it is for the said Court to decide whether the said allegations made against the accused are true or not, after recording evidence to that effect to be adduced by the prosecution and on proper appreciation of the said evidence in the final adjudication of the case.



Therefore, it is entirely the task of the Investigating Officer and if at all the charge-sheet is filed, it is the task of the trial Court to find out whether the allegations set out in the F.I.R. which are ascribed against the accused are true or not. At this stage, in a petition filed under Section 482 Cr.P.C, this Court cannot go into the said disputed question of fact to find out the truth or otherwise of the said allegations.

The legal position in this regard is clearly settled by now. The Apex Court in the case of **Satvinder Kaur v. State (Government of NCT of Delhi)**<sup>1</sup> held at para.14 as follows: 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 F.I.R., *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. It is also settled by a long course of decisions of this Court that for the purpose of exercising power under Section 482 Cr.P.C. 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.

---

<sup>1</sup> (1999) 8 SCC 728





Therefore, from the ratio laid down in the aforesaid judgment of the Apex Court based on the earlier precedents rendered to that effect by the Apex Court, the legal position is now manifest that in a petition filed under Section 482 Cr.P.C. seeking quash of the F.I.R., the High Court has no jurisdiction to examine the correctness or otherwise of the allegations made in the F.I.R. and if the allegations made in the F.I.R. *prima facie* disclose commission of cognizable offence, the High Court do not normally interfere with the course of investigation and will not interdict the investigation and trench upon the lawful power of the police to investigate into the cognizable offences.

If the case on hand is examined in the light of the aforesaid legal position enunciated by the Apex Court, a perusal of the contents of the F.I.R. shows that it *prima facie* discloses commission of a cognizable offence. Therefore, the Court should allow the investigation to go on to find out the truth or otherwise of the said allegations during the course of investigation. This Court cannot come to any conclusion at this stage whether the allegations made in the F.I.R. are true or false. It is for the Investigating Officer to ascertain the same during the course of investigation as already held *supra*.

As regards the second limb of the contention that the allegations in the F.I.R. even if true that they do not by itself constitute any offence punishable under Section 498-A of



IPC as the necessary ingredients contemplated under Section 498-A of IPC are lacking in this case is concerned, in order to appreciate the said contention, it is apposite to go through Section 498-A of IPC to find out the ingredients contemplated under the said Section and to find out whether the allegations set out in the F.I.R. constitute any offence under Section 498-A of IPC or not. Section 498-A of IPC reads as follows:

**“498-A. Husband or relative of husband of a woman subjecting her to cruelty.**—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.—For the purpose of this section, “cruelty” means—

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”

A reading of the above Section shows that when the husband or his relative subjects a woman to cruelty is liable for punishment for a term which may extend to three years and also be liable to fine. The explanation appended to Section 498-A of IPC defines the word “cruelty”. It is again in two parts (a) and (b). The act of “cruelty” as defined in clause (a) need not necessarily be in relation to any unlawful



demand for any property or valuable security. A careful perusal of clause (a) shows that any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause injury or danger to life, limb or health (whether mental or physical) of the said woman, is said to be an act of 'cruelty', for the purpose of prosecuting the said husband or his relative for the offence punishable under Section 498-A of IPC. As per settled law in this regard, the said wilful conduct of the accused must be offensively unjust to a woman and the degree of intensity of such unjust conduct on the part of the accused must be such as is likely to drive the woman to commit suicide or such conduct is likely to cause grave injury or danger to life, limb or to her mental or physical health.

In the instant case, specific allegation is made by the *de facto* complainant in the report lodged by her with the Police at para.10 of the report that her husband-A.1, somehow gained access into her mobile phone and also her WhatsApp account through some other mobile application and started monitoring her mobile phone discretely and he even went to the extent of sending objectionable messages and pictures to her friends through her WhatsApp account to show that as if she has been sending such messages to them to insult her among her friends circle and that he also used to blackmail her that he would publicise the manipulated material by taking print outs of the said material from her



WhatsApp chats and messages, and that he would tarnish her image among her relatives and also public at large. She clearly stated in the F.I.R. that the said blackmail tactics of her husband made her mentally depressed and she was constrained to take a decision to commit suicide. She stated that because of the mental support given to her by her parents, she dropped the idea of ending her life for the sake of her son.

These allegations, if ultimately found to be true, clearly constitutes an offence of subjecting the *de facto* complainant to cruelty as defined in Section 498-A of IPC. As per clause (a) appended to the explanation any wilful conduct exhibited by accused which is of such a nature as is likely to drive the woman to commit suicide amounts to subjecting her to cruelty. So, the above acts of accused No.1 clearly fall within the explanation (a) of Section 498-A of IPC.

Even the second limb i.e. clause (b) of explanation appended to Section 498-A of IPC is also clearly attracted to the facts of the present case. Clause (b) envisages that any harassment of a woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security amounts to subjecting the said woman to cruelty for the purpose of prosecuting the husband or his relative for the offence punishable under Section 498-A of IPC.



The *de facto* complainant clearly stated at para.13 of her report that her father purchased two properties in Hyderabad in the name of her husband by raising loan and her father purchased the said properties in the name of her husband to satisfy the indirect demands made by her husband for additional dowry. She further stated in the same paragraph that on 17.09.2017 her husband suddenly took her to Kurnool and raised dispute before her parents hurling blames on her by showing the manipulated WhatsApp conversations and indirectly made a demand for further additional dowry from her father. It is significant to note that she further stated in the report that with great difficulty her father could satisfy her husband by rendering financial help to him by way of additional dowry. So, these facts mentioned in the F.I.R. *prima facie* show that her husband made unlawful demands for money or property in the form of additional dowry and his demands are satisfied by the father of the *de facto* complainant. The other contents of the F.I.R. show that inspite of satisfying the said unlawful demands that he and his father along with his family members continued to harass her constantly. Therefore, since the facts of the F.I.R. *prima facie* show that the accused subjected her to harassment with a view to coercing her to meet their unlawful demands for property and money, the facts of the case clearly constitute an offence of subjecting the *de facto* complainant to cruelty as defined in



Explanation (b) appended to Section 498-A of IPC. Therefore, it cannot be said under any stretch of reasoning that the facts of the case do not constitute any offence punishable under Section 498-A of IPC as contended by the learned counsel for the petitioners.

Apropos the second contention of the petitioners that the Police of Women Police Station, Kurnool have no jurisdiction to entertain the report lodged by the *de facto* complainant with them and register the F.I.R. and investigate the case and that they are not competent to investigate the case is concerned, as already noticed supra, it is the contention of the petitioners that the contents of the F.I.R. show that all the alleged instances of harassment took place in Hyderabad where the *de facto* complainant and her husband used to live in pursuance of the employment of accused No.1 and as no such instances of harassment took place in Kurnool within the jurisdiction of the Women Police Station, Kurnool that the police of Women Police Station, Kurnool are not competent to register the F.I.R. and investigate the case and it is without any jurisdiction.

In order to appreciate the said contention, Chapter-XIII of Cr.P.C. which deals with jurisdiction of criminal courts in inquiries and trials along with Section 156 Cr.P.C. which deals with the power of police officer to investigate cognizable case is relevant to consider in this context.



Section 177 Cr.P.C. deals with ordinary place of inquiry and trial and as per Section 177, every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed. As per Section 178, when it is uncertain in which of several local areas an offence was committed, or where an offence is committed partly in one local area and partly in another, or where an offence is a continuing one, and continues to be committed in more local areas than one, or 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. As per Section 179 of Cr.P.C, 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.

So, a careful reading of these three relevant provisions i.e. Sections 177, 178 and 179 of Cr.P.C. and particularly Section 178 Cr.P.C. makes it clear that when the offence is committed partly in one local area and partly in another area and where the offence is a continuing one, and committed in more local areas than one, the offence can be tried by a Court having jurisdiction over any of such local areas. It is further clear that as per Section 179 that if the offence took place in one local area and its consequence has ensued in another local area, even the Court within whose jurisdiction



the consequence has ensued also got jurisdiction to try the case.

In the instant case, a careful perusal of the contents of the F.I.R. shows that though the *de facto* complainant and accused No.1 lived together in Hyderabad and she was subjected to harassment in Hyderabad, the contents of the F.I.R. further show that the *de facto* complainant was taken to Kurnool to her parents house by accused No.1 and he has blackmailed his father-in-law by showing the manipulated WhatsApp messages to him and made a demand for additional dowry and her father satisfied his demand for additional dowry. These facts are clearly mentioned at para.13 of the F.I.R. So, when there are several incidents spreading over for a period of time constituting acts of harassment and these incidents took place at different places viz., Hyderabad and Kurnool etc. and when these series of incidents constitutes a continuing offence committed at different places, as per Section 178 Cr.P.C., the court in any of such local areas would have jurisdiction to try the accused for the said offences. Therefore, this is a case wherein series of incidents of continuing harassment, the offence was partly committed in Kurnool also. Therefore, under Section 179 Cr.P.C, the Court in Kurnool has jurisdiction to try the case.

Now, it is relevant to consider Section 156 Cr.P.C, which deals with the power of police officer to investigate a cognizable case. It says that any officer in charge of a police





station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provision of Chapter XIII. Therefore, it is now clear that under Section 156 Cr.P.C., a police officer in charge of a police station can investigate a cognizable case which a Court having jurisdiction over the local area within the limits of such station, is empowered to investigate the said case. As per Section 178 Cr.P.C, as the Court at Kurnool got jurisdiction to try the case as the allegations in the F.I.R. show that the alleged incident of harassment for additional dowry also took place in Kurnool in the series of instances of harassment, the Station House Officer of Women Police Station, Kurnool, which is within the jurisdiction of the Court at Kurnool, as contemplated under Section 156 Cr.P.C, is clearly competent to register the said F.I.R. and investigate the said case under Section 156 Cr.P.C. Therefore, a combined reading of Sections 178 and 156 Cr.P.C. makes it abundantly clear that the Station House Officer of Women Police Station, Kurnool has got ample jurisdiction to register the F.I.R. and investigate the case.

Now, it is also relevant to consider clause (2) of Section 156 Cr.P.C. which mandates 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 under this section to investigate. So, it is now clear that the competency of any police officer to investigate a case or the proceedings of the said police officer in any such case, cannot be questioned on the ground that the said officer was not empowered under the Section to investigate the same. Therefore, in view of clause (2) of Section 156 Cr.P.C., the contention of the petitioners that the Station House Officer, Women Police Station, Kurnool, is not competent to investigate the case and he has no jurisdiction, holds no water and it is liable to be rejected.

Considering these provisions under Sections 177 and 178 of Cr.P.C. and also under Sections 154 and 156 of Cr.P.C, the Apex Court in **Satvinder Kaur**<sup>1</sup> held at para.15 of the judgment as follows:

“15. Hence, in the present case, the High Court committed a grave error in accepting the contention of the respondent that investigating officer had no jurisdiction to investigate the matters on the alleged ground that no part of the offence was committed within the territorial jurisdiction of police station at Delhi. The appreciation of the evidence is the function of the Courts when seized of the matter. At the stage of investigation, the material collected by an investigating officer cannot be judicially scrutinized for arriving at a conclusion that police station officer of particular police station would not have territorial jurisdiction. In any case, it has to be stated that in view of Section 178(c) of the Criminal Procedure Code, when it is uncertain in which of the several local areas an offence was committed, or where it consists of several acts done in different local areas, the said offence can be inquired into or tried by a Court having jurisdiction over any of such local areas. Therefore, to say at the stage of investigation that the S.H.O., Police Station Paschim Vihar, New Delhi was not having territorial jurisdiction, is on the



face of it, illegal and erroneous. That apart, Section 156(2) contains an embargo that no proceeding of a police officer shall be challenged on the ground that he has no territorial power to investigate. The High Court has completely overlooked the said embargo when it entertained the petition of Respondent No. 2 on the ground of want of territorial jurisdiction.”

In **Sujata Mukherjee v. Prashant Kumar Mukherjee**<sup>2</sup>, the Apex Court held that the complaint reveals a continuing offence of maltreatment and humiliation meted out to the victim in the hands of all the accused and in such continuing offence, on some occasions, all the accused had taken part and on other occasion, one of the accused had taken part. Therefore, clause (c) of Section 178 of Cr.P.C. is clearly attracted. Further, the Apex Court held that specific allegation against the husband that he had gone to the house of her parents and had assaulted her. Therefore, clause (c) of Section 178 Cr.P.C. is attracted and the Magistrate at her parents place also has jurisdiction to entertain the complaint.

A three-Judge Bench of the Apex Court in the case of **Rupali Devi v. State of U.P.**<sup>3</sup> held that under Section 179 Cr.P.C., criminal courts at the place of consequence of an act ensues after the married woman was subjected to cruelty at the house of her husband, would also have jurisdiction to try the offence.

---

<sup>2</sup> (1997) 5 SCC 30

<sup>3</sup> (2019) 5 SCC 384



In another case in **Sunita Kumari Kashyap v. State of Bihar**<sup>4</sup> the Apex Court held that when continuing offence committed in more local areas than one, the offence is triable by court having jurisdiction over any such local area. Therefore, complaint filed by wife at Gaya alleging ill-treatment and cruelty at the hands of her husband and his relatives at matrimonial home in Ranchi and that she was forcibly taken to her parental home at Gaya by her husband with a threat of dire consequences in case their dowry demand was not met, the offence was a continuing one and the episode at Gaya was only a consequence of continuing offence of harassment or ill-treatment meted out to complainant, and the Sub-Divisional Judicial Magistrate at Gaya has jurisdiction to proceed with the criminal case instituted therein.

Thus, from the conspectus of law enunciated in the aforesaid judgments relating to the jurisdiction of police to register the F.I.R. and investigate the case and the law relating to the jurisdiction of the Court to try the offence, the contention urged on behalf of the petitioners that the Station House Officer, Women Police Station, Kurnool, has no jurisdiction to register the F.I.R. and investigate the same and that he is not competent to investigate the case, has no merit and it is liable to be rejected.

---

<sup>4</sup>(2011) 11 SCC 301



Even otherwise, the law is well-settled that a criminal case and for that matter even a civil case cannot be rejected or dismissed on the ground of want of territorial jurisdiction. If at all the Court finds at any stage of the trial of the case that it has no jurisdiction to try the case, the Court cannot acquit the accused or reject the prosecution case on that ground. At best it can only order for transfer of the said case to a Court of competent jurisdiction to try the said case. Acquitting the accused for want of territorial jurisdiction or rejecting the prosecution case on the ground of want of territorial jurisdiction is not contemplated under the criminal law. In fact, Section 322 Cr.P.C. takes care of the said situation.

Section 322 Cr.P.C. mandates that if, in the course of any inquiry into an offence or a trial before a Magistrate in any district, the evidence appears to him to Warrant a presumption- (a) that he has no jurisdiction to try the case or commit it for trial, or (b) that the case is one which should be tried or committed for trial by some other Magistrate in the district, or (c) that the case should be tried by the Chief Judicial Magistrate, he shall stay the proceedings and submit the case, with a brief report explaining its nature, to the Chief Judicial Magistrate or to such other Magistrate, having jurisdiction, as the Chief Judicial Magistrate directs; and (2) the Magistrate to whom the case is submitted may, if so empowered, either try the case himself, or refer it to any



Magistrate subordinate to him having jurisdiction, or commit the accused for trial.

Therefore, a perusal of Section 322 Cr.P.C. makes it manifest that it does not contemplate acquittal of the accused or rejection of the prosecution case for want of territorial jurisdiction and it only mandates that when the Court finds at any stage of the case that it has no jurisdiction to try the same, that it has to take steps as envisaged therein to transfer the case to the competent Court having jurisdiction. So, when such is the legal position, even if it is a fact that the Station House Officer, Women Police Station, Kurnool, or the Court at Kurnool has no jurisdiction to prosecute the accused for the said offences, it cannot afford a ground for outright quash of the F.I.R. At best the concerned Court has to follow the procedure contemplated under Section 322 Cr.P.C. So, no proceedings of a criminal case can be quashed for want of territorial jurisdiction. Doing so, tantamount to causing gross injustice to the victim. No criminal case can be quashed for want of territorial jurisdiction. It would be totally impermissible under law to quash the F.I.R. for want of territorial jurisdiction.

Therefore, both the grounds on which the petitioners sought quash of the F.I.R. are devoid of merit.

As regards the offence punishable under Section 494 of IPC is concerned, the *de facto* complainant clearly stated in



the F.I.R. that accused No.1 himself informed her that he married Manjula. She also stated that accused No.1 is moving closely with the said Manjula. Therefore, whether there was any valid marriage between accused No.1 and the said Manjula during the subsistence of the marriage of the *de facto* complainant with accused No.1 is a disputed question of fact which is to be ascertained during the course of investigation. So, it cannot be said that no offence is made out under Section 494 of IPC as per the allegations set out in the F.I.R. There is a *prima facie* allegation to that effect which requires investigation to ascertain the said fact.

As the offence under Section 494 of IPC is a cognizable offence in the State of Andhra Pradesh, in view of the State Amendment effected in the year 1992, Police got ample power to register the case under Section 494 of IPC and investigate the case and file its final report in the Court. The bar under Section 198 Cr.P.C. to take cognizance of the case except on a complaint by the aggrieved person is on the Court. The said bar is not on the police to register the case and investigate the same. Ultimately, if the police files final report/charge-sheet even for the offence under Section 494 of IPC along with Section 498-A of IPC, it is for the concerned Court to decide whether cognizance of the said case can be taken or not in view of the bar engrafted under Section 198 Cr.P.C. Police has to first ascertain whether there is in fact a second marriage or not and whether it was performed in due



form as per the ceremonies prevailing in the community of either of the parties to the marriage or not and if they file charge-sheet to that effect, then it is for the concerned Court to decide on the aspect whether to take cognizance of the case or not in view of the bar contained under Section 198 Cr.P.C.

So, F.I.R. cannot be quashed even for the said offence punishable under Section 494 of IPC also at this stage. Therefore, the judgment, relied on by the learned counsel for the petitioners, in **Pashaura Singh v. State of Punjab**<sup>5</sup> has no application to the present facts of the case.

In the result, both the Criminal Petitions are dismissed.

Consequently, miscellaneous applications, pending if any, shall also stand dismissed.

---

**JUSTICE CHEEKATI MANAVENDRANATH ROY**

Date:24.04.2020.

Note:

L.R. copy to be marked.

B/O

cs

---

<sup>5</sup> (2010) 11 SCC 749