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THE HON'BLE SRI JUSTICE K.C.BHANU
CRIMINAL PETITION NO.3363 OF 2009.

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DATED: 09-10-2009.

Between:

1.G.B.Bhavani Kumar and two others

... Petitioners/ A1 to A3

and

1. State of A.P. rep by Public Prosecutor,
High Court of A.P., Hyderabad and another.

...Respondents/Complainants

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ORDER:

This Criminal Petition by the petitioners-A1 to A3 under Section 482 Cr.P.C. is filed to quash F.I.R.No.18 of 2009 of Mutyalareddypalli Police Station, Tirupathi, which was registered for the offences punishable under Sections 498-A IPC and 3 and 4 of Dowry Prohibition Act.

2. The 2nd respondent herein married the 1st petitioner on 26-01-2001 in the presence of both family elders at R.K.Kalyanamandapam, Tiruchanoor, Tirupathi as per Hindu Rites and Customs. At the time of the marriage, parents of the 2nd

respondent gave dowry of Rs.2,00,000/-, 2- tulas of gold, Suzuki bike and also household articles worth of Rs.70,000/- and performed the marriage grandly at Tiruchanoor. After the marriage, the 1st petitioner harassed the 2nd respondent for additional dowry of Rs.2,00,000/- for the purpose of purchasing of immovable property at Tirupathi. It is further alleged that after the wedlock, the 2nd respondent begot two children. It is also alleged that on 01-03-2009, the 1st petitioner went to the paternal house of the complainant and tried to take his one and half year old daughter with him and informed her that she will be allowed to join him only if she gets Rs.2,00,000/-.

3. Mr. Syed Qadar Masthan, learned counsel appearing for the petitioners vehemently contended that no part of cause of action arose at Tirupathi, that the cause of action for the offence punishable under Section 4 of the D.P. Act is barred by limitation, that no specific allegations are levelled against the petitioners 2 and 3 with regard to demand of dowry at Tirupathi and therefore, continuation of proceeding against the petitioners is nothing but abuse of process of Court.

4. On the other hand, learned counsel appearing for the 2nd respondent contended that there is allegation against the petitioners that they were harassing the 2nd respondent with regard to demand of dowry of Rs.2,00,000/- and insisting the 2nd respondent to bring that amount so that they can purchase a site at Tirupathi, that whether the demand of dowry is made at Tirupathi or at Chennaih is required to be investigated by the police because the F.I.R. is silent on that aspect, that since *prima facie* case under Sections 498-A IPC and 3 and 4 of D.P. Act is made out, question of quashing the proceedings does not arise and hence, he prays to dismiss the petition.

5. There cannot be any dispute that if the allegations in the complaint do not make out *prima facie* case of the offence

alleged, then only question of quashing the proceedings arises. If the un-controverted allegations in the complaint made out *prima facie* cognizable offence against the petitioners, it is the statutory duty of the police to conduct investigation and that statutory duty cannot be curtailed. Section 178 Cr.P.C. reads thus:

“Section 178: PLACE OF INQUIRY OR TRIAL.

- (a) When it is uncertain in which of several local area an offence was committed, or
- (b) Where an offence is committed partly in one local area and partly in another, or
- (c) Whether an offence is continuing one, and continuous 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 inquired into or tried by a Court having jurisdiction over any of such local areas.”

Insofar as offence under Section 498-A IPC is concerned, the allegation is that all the petitioners allegedly demanded Rs.2,00,000/- for the purpose of purchasing a site at Tirupathi. It is not specifically mentioned in the F.I.R. whether the said demand was made at Tirupathi or at Chennai where the 1st petitioner was working as Section Engineer in Railways. Harassment by a husband or relative of the husband of a woman is a cruelty within the meaning of Section 498-A IPC. Whether the said demand was made at Tirupathi or Chennai is a matter required to be enquired into by the Investigating Agency during the course of investigation.

6. Learned counsel for the petitioners relied on a decision reported on **Y.ABRHAM AJITH AND OTHERS V INSPECTOR OF POLICE, CHANNAI AND ANOTHER** [\[1\]](#), wherein it was held thus:

“A similar plea relating to continuance of the offence was examined by this Court in *Sujata Mukherjee (Smt.) v Prashant Kumar Mukherjee* (1997 (5) SCC 30). There the allegations related to commission of alleged offences punishable under Sections 498A, 506 and 323 IPC. On the factual background, it was noted that though the dowry demands were made earlier the husband of the complainant went to the place where complainant was residing and had assaulted her. This Court held in that factual background that clause (c) of Section 178 was attracted. But in the present case the factual position is different and the complainant herself left the house of the husband on 15-04-1997 on account of alleged dowry demands by the husband and his

relations. There is thereafter not even a whisper of allegations about any demand of dowry or commission of any act constituting an offence much less at Chennai. That being so, the logic of Section 178 (c) of the Code relating to continuance of the offences cannot be applied.”

There is no dispute about the proposition of law laid down by the apex Court. But, that is a case where no part of cause of action arose at Chennai. Therefore, the above decision has no application to the present facts of the case. In this case, the place where the allegation of demand of dowry is made, is silent in the F.I.R. Therefore, that has to be enquired and investigated by the police in accordance with law. But, the other allegations in the F.I.R. would go to show that on 01-03-2009 at about 3 P.M., the 1st petitioner came to the house of the complainant at Tirupathi and tried to take away his daughter and at that time, he demanded Rs.2,00,000/-and unless she brings the amount, they would not allow her to the house at Arakkonam and abused her vulgarly. Therefore, insofar as A1 is concerned, a part of cause of action arose at Tirupathi where A1 allegedly demanded Rs. 2,00,000/-. Therefore, it is not a case where no part of cause of action arose at Tirupathi. Hence, there are no grounds to quash the proceedings.

7. Accordingly, the Criminal Petition is dismissed.

K.C.BHANU, J

DATED: 09-10-2009

Hsd

[\[1\]](#) AIR 2004 SC 4286