

हरज्योत सिंह भल्ला
HARJYOT SINGH BHALLA
अतिरिक्त सत्र न्यायाधीश-04
Additional Sessions Judge-04
कमरा नं. 36, नई दिल्ली
Room No. 36, New Delhi Distt.
पटियाला हाउस कोर्ट, नई दिल्ली
Patiala House Courts, New Delhi.

IN THE COURT OF SH. HARJYOT SINGH BHALLA
ADDITIONAL SESSIONS JUDGE-04
PATIALA HOUSE COURTS, NEW DELHI

IN THE MATTER OF:
GEETANJALI SARNA Vs. SUBIR SINGH & ORS.
CNR No. DLND01-000030-2023
Criminal Appeal No. 03/2023

GEETANJALI SARNA
D/o Mr. Amarjit Singh Sarna,
W/o Subir Singh
R/o H.No. D-35, Rosewood City,
Sector-50, Gurugram
Haryana

.....Appellant

Versus

- SUBIR SINGH**
S/o Late Sh. Kartar Singh,
R/o H.No. 1167, Sector-37,
Arun Vihar,
Noida, Gautam Budh Nagar,
Uttar Pradesh

Also At:
MP-3, 002, Eldeco Amantran,



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Sector-119, Noida,
Gautam Budh Nagar,
Uttar Pradesh

2. **MRS. SARANJIT KAUR**
W/o Late Sh. Kartar Singh,
R/o H.No. 1167, Sector-37,
Arun Vihar,
Noida, Gautam Budh Nagar,
Uttar Pradesh

3. **ROOPALI SHINH**
W/o Aksh Shinh
R/o H.No. 1167, Sector-37,
Arun Vihar,
Noida, Gautam Budh Nagar,
Uttar Pradesh

...Respondents

Date of Institution : 04.01.2023
Date of reserving order : 18.07.2023
Date of decision : 28.07.2023

JUDGMENT

1. Vide this order, I propose to dispose of the present Criminal Appeal filed against the order dated 15.10.2022, passed by Ld. MM, Mahila Court-01, Patiala House Courts, New Delhi.

2. The Appellant challenges an order of the Ld. Magistrate dismissing her complaint under the Domestic Violence Act on the ground

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IN- that the court does not have territorial jurisdiction over the matter. The complaint had, in a previous round, been dismissed by another Ld. Magistrate on grounds of want of territorial jurisdiction. In an appeal filed before me by the Appellant, in my judgment dated 04.08.2022, I had noted as follows:

2. The complaint was filed claiming domestic violence. The complainant and respondent are residing at Noida and Gurugram respectively. The territorial jurisdiction of the Ld. MM, New Delhi was sought to be invoked on the basis that:

firstly, that the marriage was solemnized at Delhi Cantt., New Delhi;

secondly, istridhan articles were handed over by the family members of the complainant to the complainant at time of marriage in Delhi Cantt. area; and

thirdly, that at IGI Airport, New Delhi while parties had arrived from travel outside Delhi, the incident had taken place, which has been quoted in para 15 of the impugned order.

3. The DV Act emphasizes on domestic relationship as the basis of claiming any right or relief under the Act. Section 2 (f) of Domestic Violence Act defines domestic relationship as follows:

(f) "domestic relationship" means a relationship between two persons who live or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, or through a relationship in the nature of marriage, adoption or are family members living together as a joint family;



4. The language clearly points out that the relationship depends upon two persons "who live or have, at any point of time, lived together in a shared household".

5. The cause of action for the purposes of Domestic Violence Act would be existence of such relationship and any act which may amount to physical, verbal, sexual, emotional or economic abuse, thereby entitling the victim to approach the court and claim the relief as a remedy to such violation of right defined as "abuse". Merely because parties got married at a place or that complainant was handed over the istridhan by her family members, would not constitute cause of action for the purposes of DV Act. Jurisdiction can be assumed at a place where the parties reside or resided together where "abuse", physical, verbal, sexual, emotional or economic in nature took place.

6. I have perused the order passed by the Ld. MM who has interpreted the provisions of Section 27 of DV Act. The Ld. MM has concluded that the case did not fall within the clause (a) and (b), as the parties never resided within the jurisdiction exercised by her nor did they carried out any business or employment at any point of time. Even at present the parties are residing at Noida and Gurugram respectively.

7. The only contention left is that the case fell under clause (c) i.e. cause of action arose within the territorial jurisdiction of the court and therefore, on that count, the court could not have held otherwise and dismissed the complaint.

8. As far as the conclusion of the Trial Court on point 1 and 2 is concerned, I find myself in agreement with the same. However, as far as point 3 is concerned viz-a-viz incident at New Delhi Airport regarding which the Ld. MM has made observations in para 15 of the



order, I find that Ld. MM was, in fact, agreeing with the appellant herein, to prima facie conclude that the same amounted to domestic violence. However, Ld. MM came to conclude that the IGI Airport was not within her jurisdiction and therefore, she was not Magistrate competent to hear the DV case...

...16. I am not in agreement with the ultimate decision taken by the Magistrate, as being contrary to law. The order of dismissal is hereby set aside and it is directed that the matter be placed before Ld. CMM for assignment of the case to a Magistrate having jurisdiction over IGI Airport. However, Ld. MM having jurisdiction over the IGI Airport, shall be competent to decide the issue of territorial jurisdiction on merits, as well, and the observations made hereinabove shall not come in the way of the Magistrate, deciding the said issue on merits.

3. On remand, the Ld. Magistrate having jurisdiction over IGI airport has dismissed the complaint noting that no cause of action has arisen within the jurisdiction of the Ld. Magistrate and the allegation of abuse at IGI airport is an attempt to create jurisdiction within Delhi.

4. I have heard Ld. Counsel for the parties and perused the record. The only question that arises is whether under Section 27 of the Protection of Women from Domestic Violence Act, 2005 an allegation of domestic abuse said to have occurred in 2006 at IGI airport is sufficient to maintain a complaint before a Delhi court. Section 27 of the Act reads as follows:

27. Jurisdiction.

(1) The court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which



- (a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or
- (b) the respondent resides or carries on business or is employed; or
- (c) the cause of action has arisen, shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act.

5. The Ld. Counsel for the Appellant submits that if any part of the cause of action has arisen in Delhi, under Section 27 (1) (c), a court in Delhi would have jurisdiction. He relies on a judgment of the Allahabad High Court in *Zeba Khan v. State of U.P.* (2018) SCC Online All 5703 where the following observations are made:

15. The expression "cause of action" has acquired a judicially settled meaning. In the restricted sense cause of action means the circumstances forming the infraction of the right or the immediate occasion for the action. In the wider sense, it means the necessary conditions for the maintenance of the proceeding including not only the alleged infraction, but also the infraction coupled with the right itself. Compendiously the expression means every fact, which it would be necessary for the complainant to prove, if traversed, in order to support his right or grievance to the judgment of the Court. Every fact, which is necessary to be proved, as distinguished from every piece of evidence, which is necessary to prove such fact, comprises in "cause of action".

6. Ld. Counsel for the Respondent, on the other hand, has argued that the complainant cannot be allowed to forum-shop and has placed reliance on *Afia Rasheed Khan v. Mazharuddin Ali Khan*, 2021 SCC Online Bom 4605.



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16. Thus, averments in application suggest, that applicant is well-educated person; she is financially sound; her parents are in business. In consideration of her background it is difficult to accept her contention or that she could not seek protection order at Hyderabad. In other words, application in no way suggest or implies that she was forced to leave the Hyderabad and or she was intending to reside in Mumbai. On the contrary the chronology of the events do suggest, that the applicant engineered the cause of action with an intention to file case and confer jurisdiction upon the Magistrate.

7. The meaning of the term 'cause of action' is well settled from judgments on Section 20 of the CPC and Article 226 of the Constitution where the term appears. Though, in both those provisions, Courts can exercise jurisdiction where the cause of action arises, whether wholly or in part.

8. In *Kusum Ingots & Alloys Ltd. v. Union of India*, [(2004) 6 SCC 254], the Hon'ble Supreme Court observed as follows:

"9. Although in view of Section 141 of the Code of Civil Procedure the provisions thereof would not apply to writ proceedings, the phraseology used in Section 20(c) of the Code of Civil Procedure and clause (2) of Article 226, being in *pari materia*, the decisions of this Court rendered on interpretation of Section 20(c) CPC shall apply to the writ proceedings also. Before proceeding to discuss the matter further it may be pointed out that the entire bundle of facts pleaded need not constitute a cause of action as what is necessary to be proved before the petitioner can obtain a decree is the material facts. The expression material facts is also known as integral facts.

10. Keeping in view the expressions used in clause (2) of Article 226 of the Constitution of India, indisputably even if a small fraction of cause of action accrues

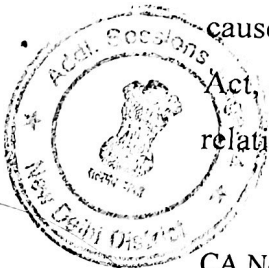


within the jurisdiction of the Court, the Court will have jurisdiction in the matter.”

9. In *Om Prakash Srivastava v. Union of India*, (2006) 6 SCC 207 : (2006) 3 SCC (Cri) 24 : 2006 SCC OnLine SC 758 at page 211, the Supreme Court further observed that:

14. The expression “cause of action” is generally understood to mean a situation or state of facts that entitles a party to maintain an action in a court or a tribunal; a group of operative facts giving rise to one or more bases of suing; a factual situation that entitles one person to obtain a remedy in court from another person (see Black's Law Dictionary). In Stroud's Judicial Dictionary a “cause of action” is stated to be the entire set of facts that gives rise to an enforceable claim; the phrase comprises every fact, which if traversed, the plaintiff must prove in order to obtain judgment. In Words and Phrases (4th Edn.) the meaning attributed to the phrase “cause of action” in common legal parlance is existence of those facts, which give a party a right to judicial interference on his behalf. (See Navinchandra N. Majithia v. State of Maharashtra [(2000) 7 SCC 640 : 2001 SCC (Cri) 215]

10. There is no doubt that Section 27 being a jurisdictional clause in a beneficial legislation, it must receive a liberal construction. (*Ram Lakhan Singh v. Union of India* 2013 SCC OnLine Del 4844) However, unlike under Section 20 CPC where it is sufficient that cause of action has arisen wholly or in part, under Section 27, the Court must find that the cause of action has arisen within the jurisdiction of the court. Under the Act, a court must look at the fact asserted to be the basis of jurisdiction in relation to the whole bundle of facts that constitutes the cause of action.



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11. In the complaint, it is asserted that the complainant got married to the respondent no.1 on 02.07.2006 in Delhi. This is asserted to be the basis for invoking the jurisdiction of the Ld. Magistrate in Delhi. The opening paragraph of the complaint is extracted below:

That the complainant got married to the respondent no.1 as per Sikh Rites and rituals on 2.7.2006 at Gurudwara Singh Sabha, Delhi Cantt. Delhi; the lunch for the guests was held at Station Artillery Officers' Mess, Delhi Cantt. Delhi. It is stated that part of the cause of action has arisen within the jurisdiction of this Hon'ble Court as the marriage between the complainant and the respondent No.1 was solemnized at Gurudwara Singh Sabha, Delhi Cantt. Delhi, which is within the jurisdiction of this Hon'ble Court.

12. I have already concluded in my order dated 04.08.2022 in the previous round that the fact of marriage within Delhi does not confer jurisdiction on the Ld. Magistrate.

13. As such, jurisdiction is now sought to be established by the complainant revisionist relying on an averment that an incident of domestic violence took place in IGI Airport, Delhi. The specific allegation stated to arise within the jurisdiction of the Magistrate is extracted below:

On the day they returned from their honeymoon and were at the airport, the complainant was forced to pick up the heavy suitcase which was extremely heavy and in the process, she snapped her lower back and had shooting pain in her left leg. The complainant screamed in pain. The respondent No.1 turned around and took his own time to reach the complainant and then scolded her that why is she screaming and he abused her for not being able to lift one bag. He called her good for nothing. The exact words used were "Dimag kharab hai haramzadi. Ek suitcase nahi utha sakti. Cheek rahi hai. Na koam ki na kaaj ki,



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dhai man anaj ki". The complainant was in extreme pain. She felt humiliated. She had tears rolling down her eyes and she could not stand there and face more embarrassment. She somehow, with great difficulty, managed to walk the steps. The complainant took steps. With each step, she felt shooting pain but she somehow managed to step out of the airport.

14. At the outset, it is to be noted that this allegation cannot be viewed in isolation. The complainant alleges domestic violence through the period from 2006 to 2021. For context, the complaint runs into 105 pages and contains allegations of many instances of domestic violence. All other allegations except the one quoted above pertain to events that took place in Gurugram, Haryana and Noida, Uttar Pradesh. The parties are not residents of Delhi. The complainant is a resident of House No. D-35, Rosewood City, Sector-50 Gurugram and is working as a Teacher in a school in Gurugram. The respondents are stated to be residing at Noida, Uttar Pradesh. A protection order is sought in respect of the residence of the complainant at Gurugram, Haryana. A direction is being sought to the Bank Manager, SBI Branch located at Eros City Square Mall, Gurugram to provide details and preserve records of Bank account of the respondent husband. Further orders are sought in respect of a property at Sector-119, Noida, UP, a property in Sector 37, Noida, UP and a property in Greater Noida.

15. In my view, the incident alleged to have occurred at the IGI Airport in the year 2006 is, by itself, insufficient to conclude that cause of action has arisen in Delhi in the present case. It is true that the alleged act at the airport, if proved, may constitute domestic violence. However, in the facts of the case, an isolated act that took place in the Airport in the year 2006, cannot be held to be sufficient to hold that cause of action has arisen

in Delhi.


16. The present complaint was made in the year 2021 where several allegations of abuse at Gurugram/Noida have been made right from the year 2006 to 2021. It appears that the case of the complainant is that she has had a marriage in which her husband has subjected her to domestic violence throughout the course of marriage. That the husband committed an act of alleged domestic violence while the couple were travelling cannot be made the basis of a complaint in a court which exercises jurisdiction over the Airport. One isolated incident of 2006 which was never reported by the complainant for 14 years cannot be said to be the basis of relief claimed. It is the subsequent events that took place over 14 long years which have led her to filing the present complaint. The expression cause of action has to be understood as such in the facts of the case. Even taking a liberal view of the term cause of action, it cannot be said that cause of action has arisen within the jurisdiction of the Ld. Magistrate. There is no error requiring interference with the view expressed by the Ld. Magistrate in the facts of the present case.

17. The present criminal appeal is disposed of accordingly.

18. TCR be sent back with the copy of this order.

19. Appeal file be consigned to Record Room.

**Pronounced in the open court
on 28.07.2023**


(Harjyot Singh Bhalla)
ASJ-04, New Delhi
अतिरिक्त सत्र न्यायाधीश-04
Additional Sessions Judge-04
नई दिल्ली
New Delhi



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