

A.F.R.

Neutral Citation No. - 2024:AHC:109913

Judgment Reserved on 1.7.2024

Delivered on 8.7.2024.

Court No. - 74

Case :- APPLICATION U/S 482 No. - 9341 of 2024

Applicant :- Inder Alias Lala

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Ashutosh Kumar Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Saurabh Shyam Shamshery,J.

1. Heard Sri Ashutosh Kumar Shukla, learned counsel for applicant and Sri D.P.S. Chauhan, learned A.G.A. for State.

2. By means of this application, applicant has prayed for quashing of a summoning order dated 3.3.2021 passed in complaint case no.278 of 2019 (Sudesh Vs. Inder @ Lala) under Sections 494, 406 and 506 of I.P.C., P.S. Tronica City, District-Ghaziabad, pending before Court of Civil Judge (J.D.) Fast Tact Court/Judicial Magistrate, Ghaziabad, District-Ghaziabad as well as quashing of consequential proceedings.

3. Applicant before this Court is husband of O.P. No.2 (complainant). The complainant has lodged a criminal complaint that applicant has committed an offence under Section 494 I.P.C.

that he got married during lifetime of complainant, without any divorce with her and when he was confronted, he committed an offence under Section 506 I.P.C.

4. Learned Trial Court after considering the statements recorded under Sections 200 and 202 Cr.P.C. passed an order under Section 204 Cr.P.C. whereby applicant was summoned for aforesaid offence.

5. Learned counsel appearing on behalf of applicant submits that the complaint was filed within jurisdiction of District Ghaziabad, whereas after marriage, complainant was residing along with applicant at Delhi, as such in view of Sections 177 and 178 Cr.P.C., Court at District Ghaziabad has no jurisdiction. Sections 177 and 178 Cr.P.C. are reproduced hereinafter :

"177. Ordinary place of inquiry and trial- Every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed.

Section 178 – Place of inquiry 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 a 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 inquired into or tried by a Court having jurisdiction over any of such local areas.

6. Above submissions are opposed by Sri D.P.S. Chauhan, learned A.G.A. that complainant is a resident of District-Ghaziabad and she after being deserted was staying there only as such in view of Sections 177 and 178 Cr.P.C. as referred above, Court at District-Ghaziabad has jurisdiction to summon the applicant.

7. In order to consider rival submissions, I have carefully perused other relevant Sections i.e. Section 182 (2) Cr.P.C. also which states as under:

"182. Offence committed by letters, etc.-(1) xxx

(2) Any offence punishable under section 494 or section 495 of the Indian Penal Code (45 of 1860) may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the offender last resided with his or her spouse by the first marriage, or the wife by the first marriage has taken up permanent residence after the commission of the offence."

8. I have carefully perused, material available along with present application that complainant was residing at the given address at District-Ghaziabad for last many years after being left by the applicant.

9. The Court also takes note of an application filed by applicant under provisions of Section 13 of Hindu Marriage Act for dissolution of marriage where, address of complainant is shown at District--Ghaziabad. Similarly in a settlement agreement also, same address has been mentioned, as such it is evident that complainant is permanently residing at the given address at District Ghaziabad, therefore, in view of Section 182 (2) of Cr.P.C. as referred above, Court within its local jurisdiction, wife by first marriage has taken up permanent residence after the commission of offence

punishable under Sections 494 or 495 I.P.C, has jurisdiction, i.e. in present case in District-Ghaziabad, therefore, objection of learned counsel for applicant in regard to jurisdiction has no merit.

10. Court also takes note of contents of statement of complainant recorded under Section 200 and statement of witnesses recorded under Section 202 Cr.P.C. as well as order dated 3.3.2021 whereby applicant has been summoned for an offence under Sections 491, 406 and 506 I.P.C. and is of the considered opinion that there are sufficient ground to proceed against applicant and in this regard Court takes note of judgment passed by Supreme Court in *Lalankumar Singh and others vs. State of Maharashtra, 2022 SCC OnLine SC 1383*.

11. Accordingly, this application has no force and is hereby rejected.

Order Date :- 8.7.2024

SB