

## Understanding Issues Of Jurisdiction In A 498A Case

In quite a few 498A cases, the 498A wives allege that they were subjected to mental cruelty or harassment in the matrimonial home in the FIR, but they end up filing the case in their native places or some other place where they may have the support of local police authorities. In most cases, these policemen are either related to the 498A wives or they are corrupt and love to register 498A cases. The end result is that the hapless hubby and his family end up having to fight cases in the districts or in other cities and worse, they may also end up getting jailed in that locality as the magistrate may not grant them bail. The problem is compounded if the lawyers are in cahoots with the other side.

The issue of jurisdiction is one of a can of worms. There is just so much hanky panky involved, that I cannot go into all the details. I can do one thing and that is clarifying the laws about jurisdiction. I pulled all this information from a judgment of Justice Shiv Narain Dhingra (W.P (Crl.) No.1266 of 2007), which in turn quotes from a judgment from 1999 (SCC 728 Satvinder Kaur vs. State (Govt. of NCT of Delhi) and another), which dealt with the question of registration and investigation of an FIR lodged at the place of residence. I have been unable to obtain a copy of this judgment, but here are the rules regarding jurisdiction as quoted by the honorable Justice SN Dhingra:

- (1) The SHO has statutory authority under Section 156 of the Criminal Procedure Code to investigate any cognizable case for which an FIR is lodged.
- (2) At the stage of investigation, there is no question of interference under Section 482 of the Criminal Procedure Code on the ground that the investigating officer has no territorial jurisdiction.
- (3) After investigation is over, if the investigating officer arrives at the conclusion that the cause of action for lodging the FIR has not arisen within his territorial jurisdiction, then he is required to submit a report accordingly under section 170 of the Criminal Procedure Code and to forward the case to the Magistrate empowered to take cognizance of the offence.

This would be clear from the following discussion. Section 156 of the Criminal Procedure Code empowers the police officer to investigate any cognizable offence. It reads as under:

Section 156: Police officer's power to investigate cognizable case:

- (1) 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 enquire into or try under the provisions of Chapter XIII.
- (2) No proceedings 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.
- (3) Any Magistrate empowered under Section 190 may order such an investigation as above mentioned.

It is true that territorial jurisdiction also is prescribed under sub-section

- (1) To the extent that the officer can investigate any cognizable case which a court having jurisdiction over the local area within the limits of such police station would have power to enquire into or try under the provisions of Chapter XIII.

However, sub-section

- (2) Makes the position clear by providing that no proceedings of the 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 to investigate.

After investigation is completed, the result of such investigation is required to be submitted as provided under Sections 168, 169 and 170.

Section 170 specifically provides that, upon an investigation, it appears to the officer in charge of the police station that there is sufficient evidence or reasonable ground of suspicion to justify the

forwarding of the accused to a magistrate, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police report and to try the accused or commit for trial.

Further, if the investigating officer arrives at the conclusion that the crime was not committed within the territorial jurisdiction of the police station, then FIR can be forwarded to the police station having jurisdiction over the area in which the crime is committed.

But this would not mean that in a case, which required investigation, the police officer can refuse to record the FIR and/or investigate it.

The law laid down by the Supreme Court is that in the event of the investigating officer arriving at a conclusion that crime was not committed within his jurisdiction, the FIR should be forwarded to the PS having the jurisdiction. However, the police officer cannot refuse to register the FIR in respect of a crime, which requires investigation.

I hope this clarifies the rules of jurisdiction for all of you.

Justice Dhingra summarized all this in the judgment, coupled with a rebuke to the SHOs of the police force. I quote:

“6. In the present case there is no allegation made in the FIR itself that a part of the crime was committed in Delhi. The parties never lived in Delhi. Marriage took place in U.P. Matrimonial home was in Patiala and alleged crime of dowry demand was allegedly committed in Patiala (Punjab). No investigation is needed to come to the conclusion that no part of crime was committed in Delhi and the alleged crime was committed either in U.P. or Patiala. PS Malviya Nagar even if registered the FIR should have transferred it to the Police Station of Patiala where the offence was committed. Normally in all such cases, zero FIR is registered at a Police Station at Delhi and FIR is transferred to the concerned police station where crime is committed. Though there is no illegality in registration of FIR, but retaining of this FIR with PS Malviya Nagar raises doubt about bonafides of SHO.

7. It is to be noted that half of the criminal writ petitions filed in this Court under Article 226 of the Constitution of India and Section 482 Cr.P.C. are in respect of refusal of the Delhi Police to register FIRs. People have to rush to the High Court seeking mandamus that police should be given directions for registration of FIR. In most of these writ petitions cognizable offences are disclosed in the complaints but police refuses to register FIR. Similarly, in most of the complaints filed before Metropolitan Magistrate, the allegation is that police refuses to register FIRs. On the one hand, police refuses to register FIRs of the people living in Delhi about commission of crime which had taken place in Delhi and on the other hand the SHO of PS Malviya Nagar had registered an FIR in Delhi regarding crime committed in Patiala. This attitude of the police is surprising. Such registration of FIR only seems to be result of some pressure or as a result of consideration and needs an enquiry to be conducted as to what was the reason for the SHO for obliging with the registration of FIR at Delhi and not transferring the same to concerned area police station when no offence was committed at Delhi. Police Commissioner also needs to issue guidelines to the SHOs in those cases, where FIR is registered in respect of crime committed outside Delhi and where no part of the offence has been committed within the jurisdiction of Delhi that such FIRs should be transferred to the State concerned and also there should be no refusal of registration of FIR. In all those cases where there is a refusal of registration of FIR, even where cognizable offence is reported, disciplinary action should be taken against such police officers. The Courts are unnecessary being burdened with complaints or writ petitions, where directions are sought for registration of FIRs.”