

## **State Of M.P. vs Suresh Kaushal And Anr. [Alongwith ... on 1 May, 2001**

**Equivalent citations: 2001(2)ALD(CRI)330, 2002(1)ALT(CRI)1, II(2001)DMC102SC, 2001(4)SCALE233, (2003)11SCC126, 2001 AIR SCW 4587, 2003 (11) SCC 126, 2002 CRI. L. J. 217, 2001 ALL MR(CRI) 1974, 2002 (2) ALLCRIR 1925, 2001 CRILR(SC MAH GUJ) 628, 2004 SCC(CRI) 1185, 2001 (1) JT (SUPP) 532, 2001 (4) SCALE 233, 2001 CRILR(SC&MP) 628, (2001) 2 CURCRIR 333, (2001) 2 DMC 102, (2001) 3 EASTCRIC 241, (2001) 2 HINDULR 179, (2004) 28 OCR 818, (2002) 1 RECCRIR 766, (2001) 5 SUPREME 240, (2001) 4 SCALE 233, (2001) 3 CRIMES 314, 2002 (1) ANDHLT(CRI) 1 SC**

**Bench: K.T. Thomas, R.P. Sethi**

### **ORDER**

1. Leave granted.

2. At the instance of Smt. Ranjana Koshal a criminal case had been registered against her husband and his sister for the offences under Section 313 and 498A read with Section 34 of the Indian Penal Code. After investigation the case was charge-sheeted by the police. The case was later committed to the court of Sessions by a Magistrate at Jabalpur. When the Additional Sessions Judge, Jabalpur framed charge against the accused for the offences aforementioned they moved the High Court in revision for quashment of the charge. A learned single Judge of the High Court of Madhya Pradesh quashed the charge, solely on the ground that the Jabalpur court has no territorial jurisdiction to try the case. The said order of the learned single Judge is being challenged by special leave at the instance of the State of Madhya Pradesh as also Smt. Ranjana Koshal the de facto complainant.

3. The marriage between Rinjana Koshal and her husband Suresh Kaushal took place at Jabalpur and thereafter the couple resided in the nuptial home situated at Indore. Most of the actions alleged against the accused took place at Indore. However, the complaint contains the allegation that Smt. Ranjana Koshal was subjected to physical torture when she was in the family way and she had to be taken back to her parental house at Jabalpur. The miscarriage took place while she was at Jabalpur. Section 313 IPC has been included in the charge as the commutative (sic) effect of all the allegations ending with the consequence of the miscarriage which took place at Jabalpur.

4. Learned single Judge found that the offence has been committed at Indore, and therefore, the court at Jabalpur has no jurisdiction at all for trying the case. This is what learned single Judge has observed in connection with the same:

The alleged offence under Section 313 IPC had also been committed outside the city of Jabalpur. The courts at Jabalpur have therefore, no jurisdiction to take cognizance

of the above offences against the Petitioners The competency of the Court to take jurisdiction is determined by the place in which the offence is alleged to have been committed. It is the settled law that the Magistrate, within whose local jurisdiction the offence is alleged to have been committed is authorized to take cognizance, and either to try the case himself or to commit it to the Court of Sessions. Since the alleged offence has not been committed within the local jurisdiction of the Magistrate at Jabalpur, the learned Judge to whom the case has been committed by the learned Magistrate of Jabalpur has no power to try the Petitioners for the alleged offence which were allegedly committed wholly outside the local limits of his jurisdiction.

5. Obviously the learned single Judge has not considered the implication of Section 179 of the Code of Criminal Procedure. It is extracted before 179. Offence triable where act is done or consequence ensues, - 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.

6. The above section contemplates two courts having jurisdiction and the trial is permitted to take place in any one of those two courts. One is the court within whose local jurisdiction the act has been done and the other is the court within whose local jurisdiction the consequence has ensued. When the allegation is that the miscarriage took place at Jabalpur it cannot be contended that the court at Jabalpur could not have acquired jurisdiction as the acts alleged against the accused took place at Indore.

7. That apart, when the High Court found that the courts at Jabalpur had no jurisdiction (with that finding we don't agree now) the course adopted by the High Court by quashing the entire criminal proceedings is not permissible in law. The High Court should have transferred the case to the court which the High Court found to be vested with jurisdiction. We cannot appreciate the course adopted by the High Court in quashing the whole criminal proceedings against the accused.

8. Be that as it may, as we found that the court at Jabalpur has also the jurisdiction to try the case it is unnecessary for considering whether the case should be transferred to Indore on that count.

9. In the result, we allow these appeals and set aside the impugned order. We are told that pursuant to the order passed by this Court staying the operation of the impugned order the trial is now progressing. If the lady accused had not yet applied for exemption from personal appearance it is open to such accused to make the application before the Sessions Judge to exempt such accused from personal appearance. If any such application is made the same shall be granted on the following conditions:

1. that she will not dispute her identity as the particular accused in the case;
2. that a counsel on her behalf will appear for her in the court when the case is taken up; and

3. She herself will be present in the court when her presence is imperatively needed.

10. With these observations these appeals are disposed of.