

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 49016 of 2012

Arising out of P.S. Case No. -298 Year- 2011 Thana –
Complaint Case District- Gaya.

- =====
1. Bablu Yadav @ Bablu Kumar S/o Doman Yadav @ Doman Mahto Resident of Village- Lichdi Tola Sone Daha, P.S.- Jori, Distt.- Chatra (Jharkhand).
 2. Doman Yadav @ Doman Mahto S/o Madhav Mahto Resident of Village- Lichdi Tola Sone Daha, P.S.- Jori, Distt.- Chatra (Jharkhand).
 3. Shanti Devi W/o Doman Yadav @ Doman Mahto Resident of Village- Lichdi Tola Sone Daha, P.S.- Jori, Distt.- Chatra (Jharkhand).
- Petitioner/s

Versus

1. The State of Bihar.
 2. Chanchal Devi D/o Jaddu Yadav Resident of Village- Naknu, P.S.- Sherghati, Distt.- Gaya.
- Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Rana Pratap Singh, Adv.
For the Opposite Party/s: Dr. Kumar Uday Pratap, APP.

=====

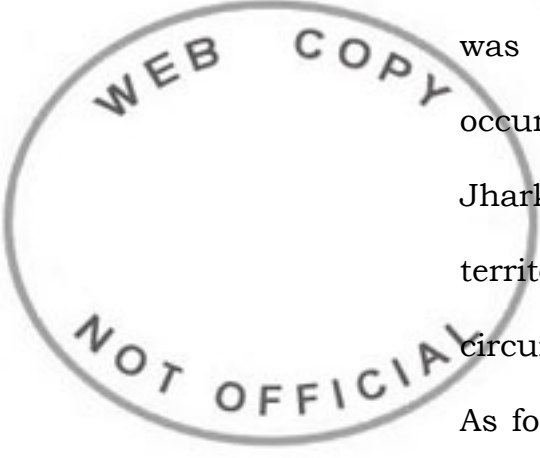
CORAM: HONOURABLE JUSTICE SMT. ANJANA PRAKASH

ORAL JUDGMENT

Date: 22-09-2015

The Petitioners who are the husband and parents-in-law seek quashing of the order of cognizance dated 01.12.2011 passed by the Judicial Magistrate, 1st Class-cum-Additional Munsif, Sherghati, Gaya in Complaint Case No. 298 of 2011.

The case of the Complainant is that she was married to Petitioner No. 1 in the year 2007 on which occasion large number of gifts and ornaments were given to the in-laws. She then went to her matrimonial home where she remained peacefully for a while. But later on family members started demanding dowry and on non-fulfilment of the same she was assaulted and ousted from the matrimonial home.



It has been submitted that the Petitioner No. 1 was minor at the time of the marriage and, hence, the marriage was void. The further submission is that the alleged occurrence had taken place within the jurisdiction of Jharkhand and, therefore, the Court at Sherghati had no territorial jurisdiction over the dispute. It is in these circumstances that he has challenged the order of cognizance. As for territorial jurisdiction, he relies on a decision reported in AIR 2004 SCW 4788 in the case of Y. Abraham Ajidh & Ors. vs. Inspector of Police & Ors., Chennai in which the Apex Court had considered the point on territorial jurisdiction very extensively. He further submits that a number of decisions had been rendered on the same ground and, hence, the order of cognizance is bad.

On the other hand, the Counsel for the Complainant submits that since several attempts were taken to settle the matter but on account of adamant attitude of the Petitioner No. 1 such dispute could not be resolved Petitioners should be put on trial.

On going through the Complaint Petition, I find that so far as the Petitioners No. 2 and 3 are concerned there is just vague and general allegation as against them and, hence, it would not be in the interest of justice to put them on trial specially since even though the marriage had taken place in the year 2007 the present case has been filed later in the year 2011.

Also, on going through the decisions reported on the point of territorial jurisdiction, I find that none of them had considered Section 462 Cr.P.C. which specifically protects such proceedings and is quoted hereinbelow:-



“462. Proceedings in wrong place:-

No finding, sentence or order of any Criminal Court shall be set aside merely on the ground that the inquiry, trial or other proceedings in the course of which it was arrived at or passed, took place in a wrong sessions division, district, sub-division or other local area, unless it appears that such error has in fact occasioned a failure of justice.”

Hence, in my opinion, it would be against the interest of justice to rule otherwise against the express provision of law. Hence, finding no merit in the application, the application is dismissed with regard to Petitioner No. 1. So far as the Petitioners No. 2 and 3 are concerned, the proceeding against them including the order of cognizance dated 01.12.2011 passed by the Judicial Magistrate, 1st Class-cum-Additional Munsif, Sherghati, Gaya in Complaint Case No. 298 of 2011 is, hereby, set aside.

The Application stands partly allowed.

(Anjana Prakash, J.)

Vikash/-

U		T	
---	--	---	--