

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No. 921 of 2014

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1. Shiv Shankar Prasad Sinha, Son of Late D. N. Prasad
 2. Ram Devi Sinha, Wife of Shiv Shankar Prasad Sinha
 3. Santosh Kumar Sinha, Son of Shiv Shankar Prasad Sinha,
All residents of Baridih Basti, House No. 27, Lohiya Path,
Ram Devi Niwas, Police Station - Siddhgora, District -
East Singhbhoom, Jharkhand, Jamshedpur

.... Petitioners

Versus

1. The State of Bihar through the Superintendent of Police,
Gopalganj
2. The Officer-in-Charge, Barauli Police Station, Gopalganj
3. Priyanka Srivasatava @ Priyanka Sinha, Wife of Santosh
Kumar Sinha, Daughter of Ashok Kumar Srivastava, Resident
of Village - Mohanpur, Police Station - Barauli, District -
Gopalganj

.... Respondents

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Appearance :

For the Petitioners : Mr.

For the Respondents : Mr.

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CORAM: HONOURABLE MR. JUSTICE GOPAL PRASAD

C.A.V. ORDER

7 31-08-2015

Heard learned counsel for the petitioners and

learned counsel for the State.

2. This writ petition has been filed for quashing the First Information Report of Barauli P.S. Case No. 241 of 2013 dated 19.10.2013 against the petitioners for the offence committed under Section 498A of the Indian Penal Code and Section 3 of the Dowry Prohibition Act instituted by the respondent no. 3 on the ground that Barauli Police Station under Gopalganj district has no

jurisdiction to investigate the case as no part of the occurrence has occurred within the jurisdiction of Barauli Police Station under Gopalganj district.

3. The prosecution case as alleged by the informant/respondent no. 3, on the basis of which First Information Report lodged, is that the respondent no. 3 Priyanka Srivastava, resident of village Mohanpur, Post – Baghaji, P.S. – Barauli, District – Gopalganj, State – Bihar, was married to Santosh Kumar Sinha, son of Shiv Shankar Prasad Sinha, resident of Baridih Basti, House No. 27, Lohiya Path, Ram Devi Niwas, Police Station – Siddhgora, District – East Singhbhum, Jharkhand, Jamshedpur on 23.11.2008. After marriage she went to Sasural at Jharkhand. The behaviour of the husband Santosh Kumar Sinha, father-in-law Shiv Shankar Prasad Sinha and mother-in-law Ram Devi Sinha was normal for ten days. After ten days of the marriage her husband came under the influence of liquor and demanded Rs.2,00,000/- and pressurized to demand the said amount from her father. The informant protested and reported that her father is an agriculturist has spent Rs.5,00,000/- in the marriage and is under the debt so she cannot demand from her father. The further case is that in the meantime, her father-in-law



and mother-in-law also came and said that if she will not demand the money then they will not keep her in the matrimonial house and will drive her out from her matrimonial home after assault and will marry the son with another lady. She informed about the occurrence to her father. Her father came and made them understand. Her father also assured them that he has just now perform the marriage spending lots of amount and his economic condition is not good but the moment his economic condition will improve then he will fulfil the demand.

4. It is further alleged that on 03.05.2012 husband, father-in-law and mother-in-law of the informant assaulted her and tied her hand and leg by rope sprinkle kerosene oil and were going to set her on fire so she made a cry and tried to flee away from the room. The neighbours on hearing her cry came to her rescue and save her. Then she informed the Officer-in-Charge of TELCO Police Station where her husband was brought and when the father of the informant reached the police station then an agreement was entered into that husband will not subject to cruelty in future. She came along with her father to her Naihar at Gopalganj.

5. It is further alleged that after six months of her stay at Naihar her husband came to her Naihar village Mohanpur,



P.S. Barauli, District – Gopalganj in the State of Bihar executed a document before the reputed villagers at her Naihar according to Hindu customs brought her to his matrimonial house after Bidai. The said paper prepared at Naihar being the signature of the husband Santosh Kumar Sinha dated 26.10.2012 is attached with the written report is part of the First Information Report on which First Information Report drawn. In the said document executed by the petitioners, it is specifically mentioned that he had subjected his wife to cruelty at his residence in which his wife had given petition in TELCO Police Station in which compromise petition filed that he is taking his wife with responsibility thereafter the wife came to Naihar with her brother and now he is taking her and assure to keep her with dignity and so has executed this document before the punches. The further case is that after taking her from Naihar to matrimonial home the accused persons, the husband, father-in-law and mother-in-law again started subjecting her to cruelty and started assaulting and abusing by her and being compelled informed her father and then her father came and taken to her Naihar. On the written report an First Information Report was ordered to be lodged on 19.10.2013 and consequently First Information Report was lodged bearing Barauli P.S. Case No. 241



of 2013 dated 19.10.2013. The assurance given by the husband when he went to Naihar at Gopalganj with his signature on the paper on which assurance given by her husband in writing before the Panches at her Naihar village Mohanpur under Baghali Police Station in Gopalganj district has also been attached which is also the part of the First Information Report. It has been mentioned in the said assurance that I Santosh Kumar Sinha, Son of Shiv Shankar Prasad Sinha, resident of Mohalla Baridih Basti, Police Station – Siddhgora, Jamshedpur, Jharkhand he is taking his wife Priyanka Srivastava, daughter of Ashok Kumar Srivastava, resident of village Mohanpur, Post – Bagheji, Police Station Barauli, District – Gopalganj with her own sweet will on 26.10.2012 and he owns entire responsibility of her and he will be responsible for any further incidence of subjecting her to cruelty. He has further mentioned that earlier on 05.05.2012 at his residential house his wife was subjected to cruelty for which his wife informed TELCO Police Station of Jamshedpur in district East Singhbhoom in the State of Jharkhand it was agreed between the parties at TELCO Police Station and had taken the victim-wife at his own responsibility. The victim father went to her Naihar with her brother for which a paper was prepared and so he is

taking the victim out of his own responsibility on 26.10.2012.

6. Hence, on the basis of the *fardbeyan* written report as well as the letter as mentioned above also being the part of the First Information Report which constitute cause of action to decide jurisdiction.

7. The writ petition has been filed for quashing the said First Information Report on the ground that the petitioners are the husband, father-in-law and mother-in-law of the respondent no. 3, the resident of Jharkhand their house is located at Baridih Basti, House No. 27, Lohiya Path, Ram Devi Niwas, Police Station Siddhgora, District East Singhbhum, Jharkhand, Jamshedpur, they are not the resident of Bihar. The petitioner no. 1 is the father-in-law was employed at Jharkhand as Security Guard and settled there with his wife and son. The respondent no. 3 is the wife of petitioner no. 3 on whose written report the First Information Report has been lodged. The copy of the undertaking given by Santosh Kumar Sinha on 05.05.2012 at TELCO Police Station has also been attached that henceforth no quarrel made by the husband. It is asserted that from bare perusal of the First Information Report, it is apparent that no part of the occurrence had taken place within the jurisdiction of Barauli Police Station



Bihar at Gopalganj and it is asserted that the allegations are made false and no occurrence as alleged occurred and she has also admitted that she went to Naihar from the in-laws house at Jharkhand but act of cruelty alleged at Naihar and hence, no part of the occurrence took place at Gopalganj so Barauli Police Station at Gopalganj has no jurisdiction to investigate or submit report.

8. Learned counsel for the petitioners submits that it has been alleged that the respondent no. 3 was married with Santosh Kumar Sinha and after marriage she went to her Sasural at Jamshedpur where she alleged to have been subjected to cruelty at Jamshedpur and hence, it is submitted that from bare perusal of the First Information Report, it is apparent that no part of occurrence took place within the jurisdiction of Barauli Police Station, Bihar at Gopalganj and hence, it is contended that since no part of the occurrence of alleged subjecting cruelty has taken place in the State of Bihar or at her Naihar under Barauli Police Station of Gopalganj and hence, Gopalganj Court has no jurisdiction to entertain the complaint and has placed reliance upon the decisions reported in **2004 (8) SCC 100 Y. Abraham Ajith & Others Versus Inspector of Police, Chennai & Another,**

2012(1) Cri. L. J. 295 Amit Kumar Gupta and Anr. v. State of Jharkhand and Anr. in view of Sections 177 and 178 of the Code of Criminal Procedure hence, Gopalganj Court has no jurisdiction.

9. Learned counsel for the respondent no. 3, however, contended that there is specific allegation by the wife that she was ill treated for non-fulfilment of the dowry demand and she was assaulted by the husband, father-in-law and mother-in-law on 03.05.2012 and tried to burn her but due to intervention of the neighbourers she was saved for which she informed Officer-in-Charge of TELCO Police caught hold of her husband and compromise enter into that no such occurrence shall be committed in future but she was taken to her paternal home at Gopalganj thereafter the husband came to her village home at village Mohanpur, Police Station – Barauli, District – Gopalganj in the State of Bihar and then a Panchayati held at village Mohanpur in Gopalganj and the husband accepting the cruelty subjected to her at Jamshedpur and giving written assurance on 26.10.2012 at village Mohanpur under Barauli Police Station in Gopalganj district, that he is taking the victim to the matrimonial home at his own responsibility, not to subject her to cruelty. Hence, the part of occurrence of executing the document accepting the cruelty and



assurance not to subject her to cruelty by husband at Mohanpur and taking the victim from Naihar at Mohanpur to Jamshedpur with assurance not to subject her to cruelty is itself indicates that not only part of the occurrence but even the consequence has ensued at Gopalganj and in view of Sections 178 and 179 of the Code of Criminal Procedure since the part of cause of action or occurrence occurred at Mohanpur and the consequence of the occurrence at Jamshedpur of subjecting cruelty ensued at Gopalganj, Gopalganj Court has jurisdiction to entertain and has placed reliance upon a decision reported in **2005(4) PLJR 741 Raja Ram Choudhary @ Raja Ram & Ors. vs. The State of Bihar and Anr.** as well as decision reported in **AIR 2011 SC 1674 Sunita Kumari Sashyap v. State of Bihar & Anr.**

10. Hence, the contention raised on behalf of the petitioners that since no occurrence took place in Gopalganj and hence, in view of Sections 177 and 178 of the Code of Criminal Procedure the place where the occurrence took place has only jurisdiction to entertain the offence. However, to the contrary the submission by the counsel for respondent no. 3 that the part of the occurrence took place at Mohanpur as well as the Panchayati at Mohanpur and executing of document at Mohanpur in Gopalganj



is the consequence of cruelty subjecting to the victim-wife ensued at Mohanpur and, hence, under Sections 178 and 179 of the Code of Criminal Procedure where the part of occurrence or the consequence ensued of the act alleged has also jurisdiction.

11. However, to the rival contention, the question for consideration whether the Court at Gopalganj has jurisdiction. However, to consider the rival contention, it is pertinent to go into the question about the jurisdiction regarding the place of inquiry and trial and it is relevant to quote Sections 177, 178, 179 of the Code of Criminal Procedure. Section 177 provides that every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction the offence has been committed so Section 177 Cr.P.C. provides a general rule. However, Section 178 Cr.P.C. provides that 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.

12. Section 179 Cr.P.C. provides that when an act



done is one area and in pursuance of that act consequence ensued at a different place then the offence may also be inquired into and tried by a Court within whose local jurisdiction the consequence has ensued. Hence, Section 177 Cr.P.C. is a general rule that ordinarily the offence can be inquired into or tried at a place where the occurrence took place but Sections 178 and 179 is exception to the general rule. Section 178 provides that the Court where the part of occurrence took place or whether the offence is continuing one continues to be committed in more than one local area then that area provides that the place or Court under whose jurisdiction the consequence of the offence ensued has also got jurisdiction to entertain the inquiry or trial by the Court where the part of the occurrence or consequence ensued false.

13. However, there is allegation that after the marriage the victim wife went to the matrimonial home at Jamshedpur district Singhbhoom where she was subjected to cruelty and she was forced and then informed the TELCO Police Station and by reason of the alleged conduct of the accused persons of assault on cruelty force the informant to leave her matrimonial home and to go to her Naihar is a consequence of the act compelling her to leave the matrimonial home and to go to live



at Naihar. Further allegation is that while the victim was at her Naihar the husband came to her Naihar at Mohanpur under Barauli Police Station in Gopalganj district in Bihar and there a Panchayat held with regard to the subjecting cruelty compelling victim to leave matrimonial home and the husband in the said Panchayat accepted the cruelty permeated in the matrimonial home at Jamshedpur and gave in writing in the Panchayat about subjecting cruelty on her and giving written assurance assured in the Panchayati that he will not subject her to cruelty and is taking her to matrimonial home on his own responsibility the said written account at Gopalganj is part of the *fardbeyan* which is the basis for First Information Report.

14. Hence, it is apparent that after the marriage solemnized the victim went to her Sasural at Jamshedpur and there she was subjected to cruelty for which matter reported to police and then she was compelled to leave matrimonial home and come to Naihar. Thereafter the husband came to the Naihar at village Mohanpur under Barauli Police Station in Gopalganj district and there a Panchayati convened with local people regarding subjecting cruelty and a document of compromise enter into at Gopalganj admitted the subjecting cruelty at Jamshedpur and



giving a written assurance to keep her with due dignity itself indicate the part of occurrence at Mohanpur in Gopalganj district and even with regard to the occurrence of cruelty at Jamshedpur the execution of document in Panchayati at village Mohanpur in Gopalganj is the consequence of the act of cruelty subjected to wife at Jamshedpur ensued at Gopalganj under Sections 178 and 179 of the Cr.P.C. Hence, as per allegation the act of coming of the husband at Mohanpur and participating in Panchayati with regard to subjecting cruelty and executing document accepting cruelty subjected to victim and giving assurance not for subject her to cruelty is apparent a part of occurrence and the consequence of the act of cruelty at Jamshedpur which ensued at Mohanpur in Gopalganj to attract jurisdiction.

15. In this regard reliance has been placed on a passage reported in **1994(1) PLJR 513 Arun Khana Vs. The State of Bihar** and another.

16. 5. Section 179 of the Code reads as follows:

“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.”

The section is in the nature of exception to the general

rule that every offence shall be enquired into and tried by the Court within whose local jurisdiction it was committed. It provides that an act is an offence by reason of consequence which has ensued therefrom, the offence may be enquired into or tried by Court within whose local jurisdiction the act was committed or the consequence has ensued. There can be no doubt that the act and its consequence must be so interlinked that the consequence is the direct result of the Act. Where the wife is forced to leave her husband/in-law's house there can be no doubt that her leaving the house is the direct result or consequence of conduct and, therefore, an integral part."

17. And this principle has been placed reliance in decision reported in **1997(1) PLJR 590 Girdhari Lal Jatana & ors. vs. The State of Bihar & anr.** In decision reported in **Sunita Kumari Kashyap** (supra), it has been held that specific assertion by wife about ill-treatment and cruelty at hands of husband and his relatives at Ranchi, because of their action, she was taken to her parental home at Gaya by her husband with a threat of dire consequences for not fulfilling their demand of dowry. In the said fact it was held that part of occurrence took place at Gaya as husband took her to Gaya with threat and so in view of Sections 178 and 179 of the Cr.P.C. held that the offence was a continuing one having been committed in more local areas than one and further the consequence has ensued to hold that Court at Gaya has jurisdiction to inquire and try. In decision reported in Sunita



Kumari Kashyap (Supra) while interpreting Section Ss. 178 and 179 of the Cr.P.C. the Court has also considered the contention of the other side with specific reference to the cases cited by the petitioners/appellant *Y. Abraham Ajith* (supra) and **2008 (11) SCC 103 BHURA RAM AND OTHERS Versus STATE OF RAJASTHAN AND ANOTHER** and rejected the contention. However, the decision relied upon by the learned counsel for the petitioners reported in **BHURA RAM AND OTHERS** (supra), considered the decision reported in **Y. Abraham Ajith** (supra), has only considered with Section 177 Cr.P.C. to held that ordinarily the place of inquiry and trial is the place where the occurrence took place and was not a case for consideration of Sections 178 and 179 of the Cr.P.C. and, hence, is not applicable to the facts and circumstances of this case.

18. Hence, under the facts and circumstances of the case, the distinguished fact is that the victim was subjected to cruelty at Jamshedpur and thereafter victim came, went to her Naiher at Gopalganj. The husband also went to Gopalganj and there at Gopalganj a Panchayati convened and husband in the Panchayati at Gopalganj accepted the subjecting cruelty by him at Jamshedpur and assured before Panchayti in writing that he will

not subject her to cruelty and will keep her with due dignity. The said writing of the husband at Gopalganj is also part of the First Information Report. The victim was taken by husband from Gopalganj with assurance that the victim will not be subjected to cruelty but was again subjected to cruelty.

19. Hence, the occurrence at Gopalganj is consequence of the occurrence at Jamshedpur for subjecting cruelty which ensued at Gopalganj at her Naiher attract Sections 178 and 179 of the Cr.P.C. to give jurisdiction to Gopalganj Court.

20. Hence, in view of the special facts and circumstances of the case, the decision relied upon by the learned counsel for the petitioners reported in decision *Y. Abraham Ajith* (supra) is not applicable as Section 177 Cr.P.C. refers to the jurisdiction ordinarily at a place where occurrence took place. So the general rule is that jurisdiction is the place where occurrence took place but the exception mentioned in Sections 178 and 179 of the Cr.P.C. that the place where part of occurrence took place and the place where the consequence of the act alleged ensued has also jurisdiction to entertain the petition admitted the cruelty permeated at TELCO and gave assurance in writing at Gopalganj that he will not subject her to attract cruelty.

21. Hence, taking into consideration the entire facts and circumstances of the case, I am of the opinion that the submission made by the learned counsel for the petitioners is not sustainable that Gopalganj Court has no jurisdiction to entertain the inquiry or trial but inasmuch as Sections 178 and 179 of the Cr.P.C. are fully attracted in the facts and circumstances of the case to give jurisdiction to Gopalganj Court to entertain the petition and take cognizance. Hence, I do not find any merit to interfere with the investigation on the complaint filed by the respondent no. 3 and hence, I do not find any merit in the petition and the same is dismissed.

(Gopal Prasad, J.)

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